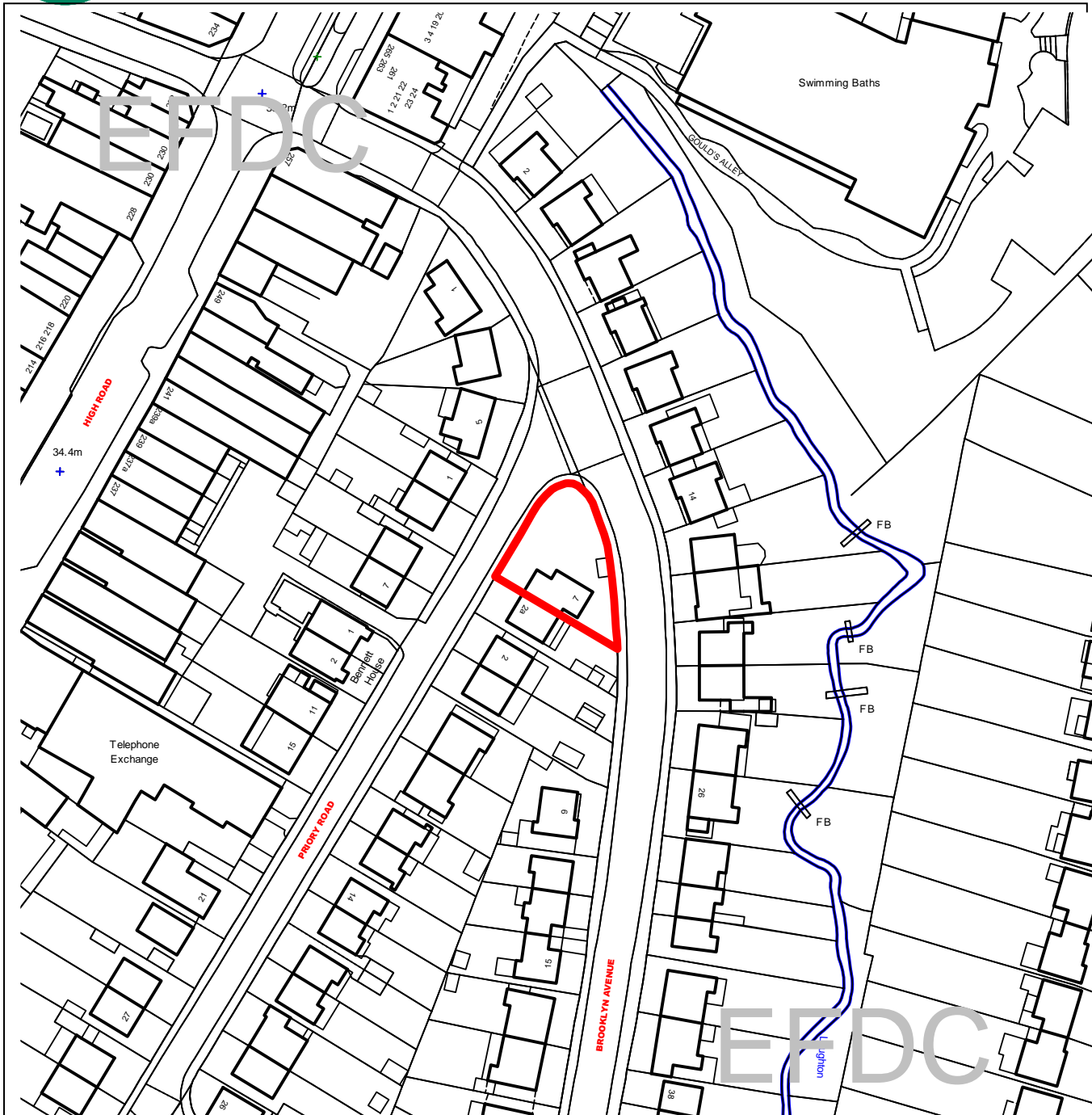




# Epping Forest District Council



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Application Number:	EPF/1306/21
Site Name:	7 Brooklyn Avenue, Loughton IG10 1BL
Scale of Plot:	1:1250

**Report Item No: 11**

<b>APPLICATION No:</b>	EPF/1306/21
<b>SITE ADDRESS:</b>	7 Brooklyn Avenue Loughton IG10 1BL
<b>PARISH:</b>	Loughton
<b>WARD:</b>	Loughton St Marys
<b>APPLICANT:</b>	Mr and Mrs Nooitgedacht
<b>DESCRIPTION OF PROPOSAL:</b>	Proposed detached 3 bedroom dwelling in an existing side garden.
<b>RECOMMENDED DECISION:</b>	Grant Permission (Subject to Legal Agreement)

**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=652278](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=652278)

**CONDITIONS**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 100, 101 Rev A, 102, 103, 200, 201, 202, 203, 210, and 220.
- 3 Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.
- 4 A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority

5 Tree protection shall be implemented prior to the commencement of development activities (including demolition), and the methodology for development (including supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports and Tree protection shall be installed as shown on Arborterra Ltd drawing number 720- 03 dated April 2021, unless the Local Planning Authority gives its prior written approval to any alterations.

6 Prior to any above groundworks, details and location of the parking spaces equipped with active and/or passive Electric Vehicle Charging Point(s) shall have been submitted to and approved in writing with the Local Planning Authority (LPA), unless otherwise agreed in writing with the LPA. The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first 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:
  - a) Which parking bays will have active and/or passive charging provision, including disabled parking bays;
  - b) How charging point usage will be charged amongst users;
  - c) The process and the triggers for identifying when additional passive charging points will become activated; and
  - d) 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.

7 Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority (LPA). 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 LPA 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 LPA.

- 8 Prior to first occupation of the building hereby permitted the window(s) in the flank elevation(s) facing the host house at first floor level and above, shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of that/those window[s] that is less than 1.7 metres above the internal floor level of the room in which it is installed shall be capable of being opened. Once installed the obscure glass shall be retained thereafter.
- 9 Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 10 Prior to first occupation of the development, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved.
- 11 Prior to first occupation of the development the existing vehicular access on Brooklyn Avenue shall be fully reinstated, including footway construction and full height kerbing.
- 12 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified in the submitted application form, unless otherwise agreed in writing by the Local Planning Authority.
- 13 Hard and soft landscaping shall be implemented as shown on Tententen 'proposed landscaping plan' drawing number 103; and the accompanying planting schedule. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. If any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 14 If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
- 15 All material excavated from the below ground works hereby approved shall be removed from the site unless otherwise agreed in writing by the Local Planning Authority.
- 16 Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.

- 17 No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.
- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) o development permitted by virtue of Classes A, AA, B & E of Part 1 to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority.

***...and Subject to the Completion of a s106 Legal Agreement.***

*This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

**Site and Surroundings**

The site comprises of a semi-detached house situated on the corner of Priory Road and Brooklyn Avenue. It is not listed nor in a conservation area or a flood zone. There are no protected trees on site.

**Proposal**

The proposal is for a detached 3-bedroom dwelling in an existing side garden.

**Relevant Planning History**

EF\2020\ENQ\01044 – Pre-application for a proposed Infill detached dwelling.

**Development Plan Context**

*Local Plan and Alterations 1998 & 2006 (LP)*

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
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
H2A	Previously Developed Land
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE8	Private Amenity Space
DBE9	Loss of Amenity

LL10	Adequacy of Provision for Landscape Retention
LL11	Landscaping Schemes
ST4	Road Safety
ST6	Vehicle Parking

*National Planning Policy Framework 2021 (Framework)*

The Framework 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:

Paragraphs	110 - 112
Paragraph	119
Paragraphs	126, 130
Paragraph	180

*Epping Forest District Local Plan Submission Version 2017 (LPSV)*

Although the LPSV does not currently form part of the statutory development plan for the district, on 14<sup>th</sup> 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 2<sup>nd</sup> 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.

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as **Main Modifications**, to the Epping Forest District Local Plan Submission Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan

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.

Policy	Weight afforded
SP2 Spatial Development Strategy 2011-2033	Significant
H1 Housing Mix and Accommodation Types	Significant
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	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

### **Summary of Representations**

Number of neighbours Consulted: 14. 13 response(s) received

Site notice posted: No, not required

MULTIPLE OBJECTIONS RECEIVED – Summarised as;

- Out of character/Bulky/Overdevelopment;
- Garden Grabbing;
- Lack of amenity space;
- Loss of privacy/overlooking;
- Parking/Traffic Highways safety concerns;
- Loss of light;
- Flooding concerns;
- Trees and landscaping; and
- Impact on EFSAC.

LOUGHTON TOWN COUNCIL – The Committee OBJECTED to this application on the grounds that it was garden grabbing and an overdevelopment of the site, leaving both properties with insufficient amenity space. Members commented that this corner added to the visual amenity of the street. The Committee opposes any loss of trees and noted that the proposal would result in the loss of four trees on the site.

The additional dwelling would result in more car pollution and a subsequent impact on the air quality to the SAC. Any additional dwelling that leads to more traffic in the SAC is unacceptable. The flats would also result in more pressure for the overstressed recreational services and subsequent damage to the SAC. The current proposed solution to bring in a Clean Air Zone (CAZ) is not guaranteed to occur and would not stop additional cars associated with new dwellings from polluting the SAC before it was brought in.

### **Planning Considerations**

The main issues for consideration in this case are:

- a) The impact on the character and appearance of the area;
- b) Standard of accommodation;
- c) The impact on the living conditions of neighbouring amenities;
- d) Highway safety and parking provision;
- e) Trees and landscaping; and
- f) The impact on the Epping Forest Special Area of Conservation (EFSAC).

#### *Character and Appearance*

The proposed development is considered to have a neutral impact to the street scene and wider area and would follow the pattern of development within the locality. It would not amount to harmful overdevelopment of the site as there would be (1) sufficient spacing around the dwelling; 2) ample amenity space retained for the host house, and (3) functional amenity space provided for future users of the dwelling.

To conclude, development on this site would be considered to be making and effective use of land and will have a neutral impact to the character and appearance of the area.

#### *Standard of Accommodation*

The proposal would exceed the National Described Space Standards for a 3 bed-6-person dwelling (102m<sup>2</sup>) at some 120m<sup>2</sup> and have a functional external amenity space of some 124m<sup>2</sup> with a reasonable outlook for future users of the dwelling, and the host house would retain some 100m<sup>2</sup> of amenity space.

As such there are insufficient grounds to refuse this scheme on this matter.

#### *Living Conditions*

The proposed development has addressed the concerns raised under the recent pre-application. As such, it is considered that the proposed dwelling would have no material impact to the living conditions of the host house, in terms of loss of privacy, loss of light, overshadowing, overbearing and visual impact.

There are no material impacts to the other surrounding properties on Priory Road to the front & Brooklyn Avenue to the rear/side, in terms of loss of privacy from harmful overlooking that would warrant a reason for refusal.



### *Highway Safety*

With regards to the parking arrangements for the proposed dwelling, 2 car parking spaces are required for a 2 bed+ dwelling in line with the Councils adopted parking standards (Essex Parking Standards 2009), which the proposal would meet. It is also noted that no objection has been received from the highways officer, so it is considered that there would be no detrimental impact to the safety operation of the highway network.

Accordingly, the proposal complies with Policies ST4 and ST6 of the LP, Policy T1 of the LPSV, and Paragraphs 110 and 111 of the Framework.

### *Trees and Landscaping*

The Councils Tree officer has raised no objection subject to the imposition of conditions as part of the consent, as the proposed landscaping scheme is considered to be adequate, and as mentioned above the existing trees on site have no legal protection so they can be removed without any consent. This consent will secure the protection of the existing trees to be retained and those proposed.

### *Epping Forest Special Area of Conservation (EFSAC)*

A significant proportion of 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 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 concluded that there are two Impact Pathways whereby development within the Epping Forest District is likely to result in significant effects on the EFSAC. The Impact Pathways 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 elements of the methodology underpinning the appropriate assessment of the LPSV, no issues were identified in relating to the screening of the LPSV or the Impact Pathways identified. Consequently, the Council, as Competent Authority under the Habitats Regulations, is satisfied that the Impact Pathways to be assessed in relation to this application pertinent 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 (air quality).

### **Stage 1: Screening Assessment**

This application has been screened in relation to both the recreational pressures and air quality Impact Pathways and concludes as follows:

- 1) The site lies within the 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 would result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.

2) The development would result in a net increase in traffic using roads through the EFSAC.

Consequently, the application proposal would result in a likely significant effect on the integrity of the EFSAC in relation to recreational pressures and air quality.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to the above.

## **Stage 2: 'Appropriate Assessment'**

### Recreational Pressure

The proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the Interim Approach, has provided a strategic, district wide approach to mitigating recreational pressures on the EFSAC through the securing of financial contributions for access management schemes and monitoring proposals. Consequently, this application can be assessed within the context of the Interim Approach. In doing so the Council has sought to take a proportionate approach to the securing of such financial contributions, and currently only seeks these from proposals for new homes within 3km of the EFSAC, as is the case with this planning application. The applicant has agreed to make a financial contribution in accordance with the Interim Approach.

### Air Quality

The proposal falls within the definition of 'windfall development.' The application has been supported by sufficient information to support the assessment of the application in relation to the creation of additional Annual Average Daily Traffic on roads within 200m of the Epping Forest Special Area of Conservation. An allowance for windfall development across the District up to 2033 has been included within the air quality modelling used to inform the development of the Council's Interim Air Pollution Mitigation Strategy (APMS), and the identification of the required mitigation measures within it. Therefore, subject to the imposition of planning conditions and completion of a Section 106 Planning Obligation to secure the delivery of the relevant required mitigation measures identified within the APMS, the application is acceptable in relation to the consideration of the Air Pollution Pathway of Impact.

In addition to the per-dwelling financial contribution, the relevant mitigation measures include ensuring all new car parking spaces having physical access to an EV charging point, and provision of digital communications infrastructure to support home working.

Consequently, the Council is satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation.

## **Conclusion**

For the reasons set out above, having regard to the matters raised, it is recommended that conditional planning permission be granted subject to a s106 Legal Agreement to secure contributions for the EFSAC.

***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: Muhammad Rahman  
Direct Line Telephone Number: 01992 564415***

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