

# OFFICER REPORT

**Application Ref:** EPF/2179/23  
**Application Type:** Removal/variation of conditions  
**Applicant:** Mr S Suchfield  
**Case Officer:** Muhammad Rahman  
**Site Address:** Black Swan Ph, Common Road, Waltham Abbey, EN9 2DF  
**Proposal:** s73 variation to condition 2 (plan numbers) attached to EPF/3254/21 (The erection of two new detached dwellings). The proposed changes are; (1) Two front dormer windows and three rear roof lights to the bungalow, and (2) changes to the front landscaping to create two parking spaces at the front of each dwelling, including the creation of a second vehicular access point, the erection of 1.8m high timber fences with 2m high brick piers, further landscaping, and cycle/bin stores.

**Ward:** Broadley Common, Epping Upland and Nazeing  
**Parish:** Roydon  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000001XYUq>  
**Recommendation:** Refuse



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

### **Site and Surroundings**

The site comprises a parcel of land within the Green Belt and located both within the Nazeing and South Roydon Conservation Area and the curtilage of the grade II listed Black Swan, a late 16th century Public House extensively rebuilt in the early 18th century.

### **Proposal**

The proposal is to vary condition 2 (plan numbers) attached to EPF/3254/21 (The erection of two new detached dwellings). The proposed changes are;

- (1) Two front dormer windows and three rear roof lights to the bungalow, and
- (2) changes to the front landscaping to create two parking spaces at the front of each dwelling, including the creation of a second vehicular access point, the erection of 1.8m high timber fences with 2m high brick piers, further landscaping, and cycle/bin stores.

### **Relevant Planning History**

EPF/0109/18 - Erection of detached house and detached double garage served by new access onto Common Road - Approved

EPF/2700/18 - Application for Approval of Details Reserved by Condition 8 for EPF/0109/18 - Details Approved

EPF/0969/19 - Proposed erection of x 2 no. new semi-detached dwellings including associated landscaping, served by new access onto Common Road – Refused & Dismissed on Appeal

EPF/0027/20 - Nazeing & South Roydon Conservation Area 1 x Cherry - Fell & replace - Approved

EPF/1448/20 - Application for Approval of Detail Reserved by Conditions 3,5,7,14 & 15 for EPF/0109/18 - Details Partially Approved (14 & 15 only)

EF\2020\ENQ\01019 - Pre-application for two new dwellings on land adj to Black Swan – Advice Given

EPF/1049/21 - The erection of two new detached dwellings on land adjacent to The Black Swan, Roydon – Refused

EF\2021\ENQ\00502 – Pre-application for the erection of dwelling on the land north of the existing public house with hard and soft landscaping – Advice Given

EF\2021\ENQ\00968 - Pre application for a proposed x2 no. new dwellings - Advice Given

EPF/3254/21 - The erection of two new detached dwellings. (Revised scheme to EPF/1049/21) - Approved and Implemented

EPF/1861/23 - Variation of condition 2 'plan numbers' of EPF/ (Erection of two new detached dwellings (Revised scheme to EPF/1049/21)) - Disposed

EPF/2907/22 - Application for Approval of Details reserved by conditions 3"details of surface water disposal", 5"types & colours of external finishes" & 14"electric vehicle charging point(s) for EPF/3254/21  
- Refused

EPF/0888/23 - Variation to condition 2 'Plan numbers' on planning approval EPF/3254/21 - Refused

## **Development Plan Context**

### *Epping Forest Local Plan 2011-2033 (2023)*

On 9 February 2023, the council received the Inspector's Report on the Examination of the Epping Forest District Local Plan 2011 to 2033. The Inspector's Report concludes that subject to the Main Modifications set out in the appendix to the report, the Epping Forest District Local Plan 2011 to 2033 satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 and meets the criteria for soundness as set out in the National Planning Policy Framework and is capable of adoption. The proposed adoption of the Epping Forest District Local Plan 2011 to 2033 was considered at an Extraordinary Meeting of the Council held on 6 March 2023 and formally adopted by the Council.

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

SP1	Spatial Development Strategy 2011-2033
SP5	Green Belt & Local Green Space
H1	Housing Mix and Accommodation Types
T1	Sustainable Transport Choices
DM2	Epping Forest SAC and the Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM4	Green Belt
DM5	Green and Blue Infrastructure
DM7	Heritage Assets
DM9	High Quality Design
DM10	Housing Design and Quality
DM11	Waste Recycling Facilities on New Development
DM15	Managing and Reducing Flood Risk
DM16	Sustainable Drainage Systems
DM17	Protecting and Enhancing Watercourses and Flood Defences
DM18	On Site Management of Wastewater and Water Supply
DM19	Sustainable Water Use
DM21	Local Environmental Impacts, Pollution and Land Contamination
DM22	Air Quality

### *National Planning Policy Framework 2023 (Framework)*

Paragraph	11
Paragraphs	131 & 135
Paragraphs	142 - 154
Paragraph	186
Paragraphs	196 – 206

## **Summary of Representations**

Number of neighbours Consulted: 11. 1 response(s) received  
Site notice posted: Yes

ROYDON PARISH COUNCIL – Objection - In agreement with the Trees and Landscape Officer who states:

We raise no objection to part 1 - Two front dormer windows and three rear roof lights to the bungalow.

We do, however raise an objection to the proposed layout of the frontage of the site and proposed boundary treatment. The proposed layout creates a significant hard standing area at closer proximity to the road than previous approved. We consider that this results in a much-reduced area of landscaping along Epping Forest District Council memo the roadside, which in turn leads to an urbanisation effect on this open, rural / green part of the Conservation Area.

An alternative would be for the area currently shown with cars to be fully soft landscaped, with the car parking moving closer to the houses – i.e., as follows. There should still be space allocated for planting to the front of the houses between the houses and the cars. The boundary between the two properties should consist of a hedge / trees to assist in softening the site – there is sufficient space for this – it should be a minimum of 2 metres in width to allow for robust planting to establish.

We also object to the proposed hard landscaping proposals of the brick piers, with timber fencing and solid gates. Whilst we note the comments made by the applicant in terms of similar boundary treatments within the area, this specific area – i.e. the immediate environs of the pub is that of an open, natural boundary. As such we object to the introduction of brickwork and solid fencing. What would be more appropriate here would be a post and rail gate with post and rail front fencing. If this is supported with a robust soft landscaping scheme on either side of the fence it should still provide security.

Should these comments be taken on board and revised plans submitted, we would request that full hard and soft landscaping details are submitted for consideration. The landscaping is fundamental in terms of how the proposal will appear within the setting of the Conservation Area, and as such we do not consider that it should be left to an approval of conditions application. Should further information be received please re-consult for revised comments.

I understand that historically Broadley Common does suffer flooding at times and this would seem to only add to this.

It was also discussed that the fence height at 2m is too high.

### **Planning Considerations**

The main issue is the effect that varying condition 2 would have on the heritage assets and landscaping.

#### *Character and Appearance of CA & Setting of Listed Building*

The Council's Conservation Officer has provided the following comments below;

This application follows planning permission, EPF/3254/21, approved with conditions in order to ensure the satisfactory appearance in the interest of visual amenity in regard to the Nazeing and South Roydon Conservation Area, as well as to ensure the proposed works preserve the setting of the associated Listed Building (Black Swan Public House).

- *CONDITION 2 – The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 20020\_PA\_100 Rev A, 20020\_PA\_101 Rev A, 20020\_PA\_102 Rev A, 20020\_PA\_103 Rev A, 20020\_PA\_104 Rev A, and 20020\_PA\_105 Rev B*

The proposed variation of the approved plans comprises alterations to the right hand side (northern) dwelling on the site, including the installation of two front dormer windows and three rear rooflights; as well as alterations to the landscaping/boundary treatments for both, including the creation of an

additional (second) access with a tall, solid gate and piers and the erection of a tall, closeboarded fencing along the edge and centre of the plot.

The installation of rooflights to the rear elevation of one of the dwellings does not raise objections; this is the least visible elevation of the affected dwelling and is therefore considered to have a suitably limited impact on the setting— including views to and from—the neighbouring Listed building. Any rooflights within this sensitive setting would be expected to be of Conservation grade and would thusly be subject to conditions regarding their final approval. However, the remainder of the proposed variations are considered to be UNACCEPTABLE.

This assessment is in line with all previous Conservation comments and decisions on related redevelopment schemes at the site from 2018 to present which have consistently required that the scale, massing and detailing of the northern dwelling be suitably limited in order to achieve an appropriate design within the immediate setting of a designated heritage asset (Listed building; conservation area). The associated scheme and Conservation comments are noted below, for ease of reference:

- EPF/0888/23; comments issued 24 May 2023 & 13 June 2023 [on revised app]
- EPF/3254/21; comments issued 02 February 2022
- EPF/1049/21; comments issued 15 September 2021
- EF\2021\ENQ\00502; comments issued 06 July 2021
- EF\2020\ENQ\01019; comments issued 22 January 2021
- EPF/1448/20; comments issued 12 October 2020
- EPF/0969/19; comments issued 04 October 2019 o Appeal dismissed; inspector comments issued 01 July 2020
- EPF/0109/18; comments issued 19 March 2018

The proposed variation (dormers) to the front elevation of the northern dwelling is most similar to the previously refused 2019 design (ref. EPF/0969/19), which was further supported by a dismissed appeal (ref. APP/J1535/W/20/3246008) in 2020. The Inspector's comments on that scheme noted:

*"The proposed houses would occupy much of the width of the appeal site. [...] The ridgeline of the smaller house would be set down from that of the larger house, but only by a small amount. The smaller house would include two dormers to both the front and rear roof slopes. [...] I consider that the scale of the houses, the proximity to the shared boundary and their siting closer to Common Road would result in the appeal development being seen as a dominant feature in the setting of the listed building from the road and from the neighbouring property, Tudor Lodge. [...] Having regard to all the above considerations I accordingly conclude that the development proposed would cause unacceptable harm to both the setting and significance of the listed building and to the character and appearance of the CA.*

Further relevant conservation comments on the most recently refused application (ref. EPF/0888/23) for variation of the approved plans (Condition 2) noted:

*"The further encroachment to the historic curtilage of the Grade II Listed PH, through the erection of the proposed outbuilding, is unacceptable in principle. This is due to the increasingly adverse impact that an additional built form on the site will have on the sensitive setting of the neighbouring Listed building, a relatively small scaled, simply designed structure set back from the public highway (Common Road) c.20m at its nearest point, all set within an open, green, unbuilt plot. The proposed building would appear overbearing and over-prominent, representing an overdevelopment of the site and directly contrary to Condition 19 of the approved scheme. The unsympathetic scale and positioning of the proposed outbuilding would inappropriately extend the built form nearly the full width of the site and in close proximity to Common Road, as well as partially obscuring the approved dwellings which were themselves subject to multiple careful revisions in order for the case officer to deem the most recent scheme to be acceptable. Furthermore, the proposed variation in the block plan of the site will result in the unsympathetic further loss of green space through additional hard surfacing, while also decreasing*

*the amount of appropriate turning space, directly contrary to Condition 12 of the approved scheme. It will also result in increased residential paraphernalia; increased boundary treatments, subdividing the site further; and the introduction of secondary access, resulting in the further loss of any sympathetic replanting of a front hedge boundary.*

*Lastly, as noted in multiple previous comments on related schemes at the subject site, the choice of the applicant to replace an approved garage structure (ref. EPF/0109/18) with a new dwelling (ref. EF2020\ENQ\01019; EPF/1049/21; EF2021\ENQ\00502; EPF/3251/21) necessarily limits the ability for the sympathetic introduction of any additional built forms on the site without adversely impacting the setting of the associated designated heritage assets (Listed Building; conservation area) to an inappropriate degree. This natural limitation for ancillary additions to the site is acknowledged by the applicant as part of the approved scheme (ref. EPF/3251/21) within the Planning and Heritage statement submitted in 2022 stating, 'With regards to the imagined pressure for additional extensions and or outbuildings to the two properties, [these additions] would be subject to tougher restrictions.'* ”

## **RECOMMENDATIONS**

The proposed variation to Condition 2 is NOT CONSIDERED ACCEPTABLE. This is due to the resulting harm it would cause to the significance of the affected designated heritage assets (Black Swan Public House; Nazeing and South Roydon Conservation Area) and that of their wider setting. This is supported by Policies DM7 & DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and paragraphs 189, 195, 197, 199, 200, 202 and 206 of the NPPF (2021).

Officers have no convincing justification to come to a different conclusion.

### *Landscaping*

On this matter, the Councils Tree Officer has provided the following comments below;

We OBJECT to this application on the grounds that it is contrary to - *Policy DM3 Epping Forest District Local Plan 2011-2033 (2023) - Landscape character, Ancient Landscapes and Geodiversity – '...proposals should be sensitive to their setting in the landscape, and its local distinctiveness and characteristics'*

### **Comments –**

We raise no objection to part 1 - *Two front dormer windows and three rear roof lights to the bungalow.*

We do, however raise an objection to the proposed layout of the frontage of the site and proposed boundary treatment.

The proposed layout creates a significant hard standing area at closer proximity to the road than previous approved. We consider that this results in a much reduced area of landscaping along the roadside, which in turn leads to a urbanisation effect on this open, rural / green part of the Conservation Area. An alternative would be for the area currently shown with cars to be fully soft landscaped , with the car parking moving closer to the houses.

There should still be space allocated for planting to the front of the houses between the houses and the cars.

The boundary between the two properties should consist of a hedges / trees to assist in softening the site – there is sufficient space for this – it should be a minimum of 2metres in width to allow for robust planting to establish.

We also object to the proposed hard landscaping proposals of the brick piers, with timber fencing and solid gates. Whilst we note the comments made by the applicant in terms of similar boundary treatments within the area, this specific area – i.e. the immediate environs of the pub is that of an open, natural boundaries. As such we object to the introduction of brickwork and solid fencing. What would be more appropriate here would be a post and rail gate with post and rail front fencing. If this is support with a robust soft landscaping scheme on either side of the fence it should still provide security.

Should these comments be taken on board and revised plans submitted, we would request that full hard and soft landscaping details are submitted for consideration. The landscaping is fundamental in terms of how the proposal will appear within the setting of the Conservation Area, and as such we do not consider that it should be left to an approval of conditions application.

In this regard, there is no convincing justification to lead officers to a different conclusion.

#### *Other Considerations*

The Highways officer has raised no objections subject to recommended conditions.

Although the proposal involves the removal of a condition only, as it would create a new planning permission consideration needs to be given whether the proposed development would have an impact on the Epping Forest Special Area of Conservation on top of that assessed for the parent application.

The consented scheme has been implemented and so the matters relating to the EFSAC would have been discharged. Whilst updated mitigation measures were agreed in August 2021 by the Council. However, this scheme only secured contributions towards Air Quality mitigation, which did not change.

As such should consent be granted a new s106 Legal Agreement would not be required.

#### **Conclusion**

For the reasons set out above, having regard to all the matters raised, it is recommended that planning permission be refused.

***Should you wish to discuss the contents of this report item please contact the case officer by 2pm on the day of the meeting at the latest. If no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk).***

#### **Refusal Reason(s): (2)**

- 1 The proposed amendments would result in a harmful impact on the significance of the affected designated heritage assets (Black Swan Public House; Nazeing and South Roydon Conservation Area) and that of their wider setting, contrary to Policies DM7 & DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF 2023.
- 2 The proposed layout results in a much-reduced area of landscaping along the roadside, which in turn leads to a urbanisation effect on this open, rural / green part of the Conservation Area, contrary to Policies DM3 & DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF 2023.

**Informatives: (2)**

- 3 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority has a formal post-application advice service. Please see the Council's website for guidance and fees for this service - <https://www.eppingforestdc.gov.uk/planning-and-building/apply-for-pre-application-advice/>. If appropriate, the Local Planning Authority is willing to provide post-application advice in respect of any future application for a revised development through this service.
  
- 4 This decision is made with reference to the following plan numbers: 100 Rev D, 101 Rev D, 102 Rev D, 103 Rev B, 104 Rev B, 105 Rev C, 110, and Supporting Information.