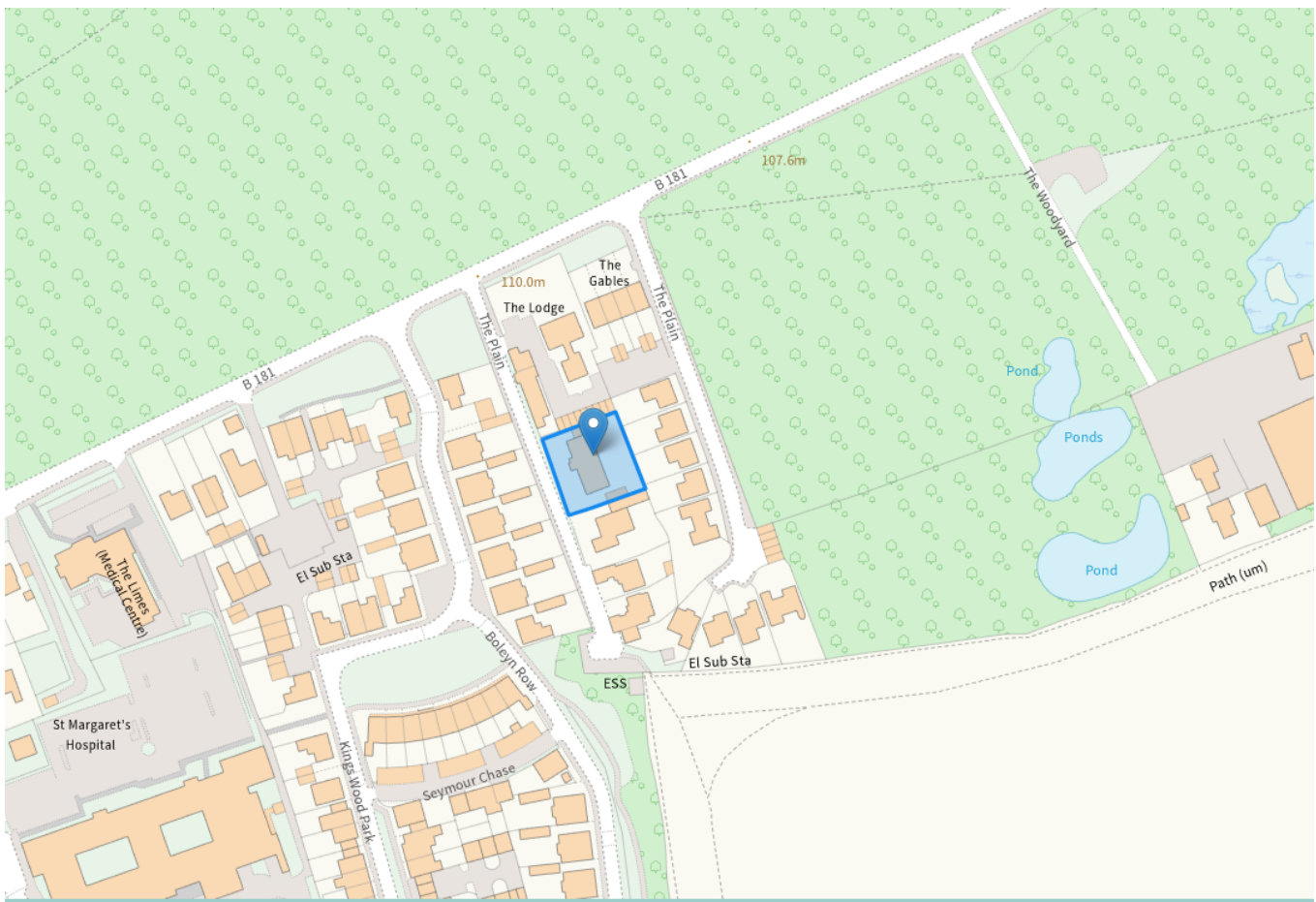


OFFICER REPORT

Application Ref: EPF/0736/24
Application Type: Full planning permission
Applicant: Mr Shillcock
Case Officer: Sukhvinder Dhadwar
Site Address: Wyldingtree, 66 The Plain, Epping, CM16 6TW
Proposal: Demolition of existing property and construction of 3 detached houses.
Ward: Epping Lindsey and Thornwood Common
Parish: Epping
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0hTv0000005i3d>
Recommendation: Approved with Conditions (Subject to s106 Legal Agreement)



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This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than five objections are received (or in cases where less than 5 were consulted, a majority of those consulted object) on grounds material to the planning merits of the proposal (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Site and Surroundings:

The application site contains a detached one-and-a-half storey chalet bungalow situated on the eastern side of the private road section of The Plain that serves a block of flats and five dwellings and runs adjacent to the rear of the New Kingswood Park Estate.

The site is located outside of the designated Green Belt in the very north-eastern part of Epping. To the immediate north of the site is the garage court serving a block of apartments known as The Lodge. There are residential properties on all other sides, including detached bungalows to the south.

The application site is located within the urban settlement of Epping. It is not situated within a conservation area nor is the dwelling listed, locally listed or a non-designated heritage asset.

Proposal:

Permission is sought for the demolition of the existing property and the construction of three detached houses.

Each house measures 4.95m high at eaves level and 8.65m high to the ridge of their hipped roofs. The Design and Access Statement indicates the finished floor levels of the houses will be 0.27m lower than that currently. The width of the houses will be 7.8m and they will have a maximum depth of 11m.

Two new trees will be planted in the rear garden of plot 1 and 2 trees are proposed to be planted within the front forecourt of the site.

Solar panels are proposed on the southern roof slopes of each house.

This application is an amendment to the refused scheme under reference EPF/0384/21. The changes made include:-

- The number of proposed dwellings from four (2 pairs of semi-detached houses), to three detached dwellings.
- The design of the properties has also changed from a town house style to a detached, hipped roof property.
- The overall depth of the houses has also been reduced so that they are no further back than the existing first floor windows on the existing property. Therefore, the new windows, will be on the same line as the existing situation.

Relevant History:

Reference	Description	Decision
EPU/0053/55	Dwelling house	Approved
EPF/0989/79	Re-construction of four dormer windows and alterations to front storm porch	Permitted Development
EPF/1111/19	The demolition of the existing chalet bungalow and the erection of four new two-and-a-half storey dwellings	Refused
Reasons for refusal were: <ol style="list-style-type: none">1. The proposed development would see the loss of the chalet bungalow on the site. This is contrary to Policy H1(F) of the Epping Forest District Local Plan (Submissions Version) 20172. The proposed new development would cause an unacceptable adverse impact on the character and appearance of the Plain as the design of two		

pairs of semidetached houses results in an excessively high, bulky and over dominant form of development which out of character with the existing street scene, contrary to the NPPF and the Local Plan (as amended) policies CP3, DBE1, and DBE2 of the Adopted Local Plan and Alterations and policy DM9 of the Epping Forest District Local Plan (Submissions Version) 2017

Appeal dismissed under reference APP/J1535/W/19/3239786 on grounds of the harm it would create to the integrity of the Epping Forest Special Area of Conservation and for no other reason. (A copy of the decision notice is attached to the bottom of this report.)

EPF/2438/19	Demolition of an existing bungalow construction of x3 no. terrace houses and x1 no. chalet-style bungalow with associated parking & gardens.	Refused
EPF/0384/21	Demolition of existing bungalow and construction of 2x pairs of semi-detached houses with associated parking & gardens (Revised application to EPF/1111/19).	Refused

Reason 1

The proposed development would result in an overdevelopment of the site, would appear overly prominent due to their height and overall scale and due to its detailed design and prominence would fail to relate positively to the character and appearance of the surrounding area. The proposal therefore fails to be of high-quality design and is therefore contrary to Chapter 12 of the NPPF, policies CP7, DBE1 and DBE3 of the Adopted Local Plan, Alterations, and policies SP 3 and DM9 of the emerging Local Plan.

Reason 2

The proposal due to its height, bulk, depth, and position will have significant overbearing impact on the neighbouring residential properties at nos. 78 and 80 The Plain. It is therefore contrary to chapter 12 of the NPPF, policies DBE 2 and DBE9 of the adopted Local Plan and Alterations and DM9 of the emerging Local Plan.

Dismissed at appeal and decision upheld.

DEVELOPMENT PLAN

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.

Epping Forest Local Plan 2011-2033 (2023):

On the 06 March 2023 at an Extraordinary Council meeting the Submission Version Local Plan was adopted by Epping Forest District Council. The now adopted Local Plan will be referred to as the Epping Forest District Local Plan 2011-2033.

The relevant policies are listed below:

Policy

SP1 - Spatial Development Strategy 2011-2033

SP2 - Place Shaping

H1 - Housing Mix and Accommodation Types

T1 - Sustainable Transport Choices

DM1 - Habitat Protection and Improving Biodiversity

DM2 - Epping Forest SAC and the Lee Valley SPA

DM4 - Green Belt

DM5 - Green and Blue Infrastructure

DM6 - Designated and Undesignated Open Spaces

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 Waste Water and Water
Supply

DM19 - Sustainable Water Use

DM20 - Low Carbon and Renewable Energy

DM21 - Local Environmental Impacts, Pollution and
Land Contamination

DM22 - Air Quality

NATIONAL PLANNING POLICY FRAMEWORK (December 2023)

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.

Consultation Carried Out and Summary of Representations Received

Responses received:

64 THE PLAIN, 70 THE PLAIN, 78 THE PLAIN, 80 THE PLAIN, 82 THE PLAIN, THE LODGE – 6 OBJECT:

This proposed development is on a narrow unmade private lane which is maintained by the residents. We do not believe the new proposal of 3 x four-bedroom properties would fit in with the local 'street scene' for the road and that it would be an excessively large development in comparison to the current single bungalow.

Loss of view

Each of the new houses proposed has a roof height that is greater than the existing bungalow and with the design being that of a two storey then the impact of the roof line starting at the top of the first-floor vs the current roof line providing a gradient sloping away at the top of the ground floor it is clear to see that further light will be blocked.

In addition, at the rear of Plot 1 it is planned to plant two *Betula Jacquemnotii* trees, otherwise known as Birch trees which will grow to a height of between 9 and 15 metres i.e. to a minimum of the height of the house and onwards to 50% taller still. Being sited at the boundary fence this is simply an unacceptable blocking of light and view.

Insufficient parking

Noise pollution from increase in dwellings on the site

Adverse impact to amenity during construction

Loss of privacy

Difficult for emergency services

Suggested conditions:-

1. No attic conversion / introduction of dormer windows be allowed at any future date.
2. That the planting of two *Betula Jacquemnotii* trees be disallowed with only trees that grow to a maximum of three metres high be allowed.
3. That a double skin brick retaining wall to be constructed between the boundaries of the development and nos. 76,78 and 80 The Plain i.e. the rear wall. This should be to a minimum height of 2.5m to mitigate against both the additional noise from the new development and serve to minimise the level of being overlooked and protect the privacy of those in the new development which have the 'higher ground' as well as ourselves. This should run parallel to the

existing garages and boundaries of the development and property 76. This should be put into place prior to any demolition and construction of the current bungalow.

4. That any building works be restricted to Monday to Friday (excluding public holidays) and only between the hours of 8am and 6pm.

66A THE PLAIN, 68 THE PLAIN-2 SUPPORT: Will improve road setting. Will replace derelict house with a suitable scheme.

PARISH COUNCIL: No objection

Main Issues and Considerations:

Principle of the development

Policy SP 1 of the LP indicates that additional 'windfall' sites will be permissible under Part B of Policy SP 1, within defined settlement boundaries.

The application site is located within the urban town of Epping within flood zone 1 (i.e. least likely to flood). The site also has no heritage designation attached to it. It would therefore meet the requirements of policy SP 1 in regard to where new housing should be located.

Background

This application is a resubmission of the refused scheme under references EPF/1111/19 and EPF/384/21 for the demolition of the existing chalet bungalow and the erection of four new two-and-a-half storey dwellings. That application was refused by members of the East Area Planning Sub Committee on the grounds that it was overdevelopment and that it would harm neighbouring residential amenity. (See History section).

Both the decisions were appealed under reference APP/J1535/W/19/3239786 and APP/J1535/W/22/3296440. The Inspector for the first appeal only found grounds for dismissal related to the lack of an Air Pollution Mitigation Strategy.

However, when determining the later appeal the Inspector Willis found that:-

"The proposed properties would fill a large proportion of the plot with only small gaps to the built form either side or between the pairs themselves. This would erode the existing greater spaciousness of this part of the street scene. Nevertheless, the streets in front and backing onto the site often have relatively small gaps between many of the properties. As a result, the scheme would not be significantly different to that of the more tight-knit layout nearby and the harm would be minor".

However in respect to neighbouring living conditions, he found that:-

'12. The existing property has first floor accommodation and the proposal would not substantially increase the maximum height of the built form at the site. Nevertheless, the proposed pairs of properties would fill much more of the width of the site. This would result in a significant expanse of built form stretching across much more of the plot, especially at upper floor levels than the existing dwelling. Moreover, the proposed dwellings would be positioned closer to 78 and 80 The Plain with gable rather than partly hipped roofs.

13. These factors, along with the steeper sloping rear roof slope, crown roof and higher eaves, would result in 2 imposing blocks of built form as experienced from the gardens of 78 and 80 The Plain. Currently the lower height and greater set in from the boundaries of the site means there is an outlook either side and beyond the appeal property even with lower ground levels behind. In contrast, having visited them, from the rear garden and rooms at 78 and 80, whose windows face directly towards the appeal site, the proposed properties would become the dominant feature. Even if existing boundary features were

retained, and with future planting that would take time to mature, the scheme would result in an oppressive and unacceptable outlook for the occupiers of these properties.

14. The existing rear first floor windows at the appeal site facing 78 and 80 The Plain result in some degree of overlooking into their gardens and rear rooms. Some overlooking also takes place from the 3 storey properties nearby. However, these are more distant or angled than the first and second floor windows proposed. The appeal scheme would introduce additional windows, across more of the site and at a higher level with the dormers. As the rear first and second floor windows serve bedrooms, it would not be appropriate to require them to be obscure glazed and non-opening. Along with the position of the proposed dwellings, the appeal scheme would cause additional overlooking at a closer distance and greater height over and between boundary treatments and landscape features. The scheme would result in an unacceptable reduction of privacy for the occupiers of 78 and 80 The Plain'.

The subsequent Judicial Review of this appeal decision, found it to be sound.

Design

The scheme has been revised to address the previous concerns raised by Inspector Willis. Amendments include 1 less unit which allows an increased number of breaks between the dwellings. The removal of accommodation in the roof and the replacement of mansard roofs with hipped roofs adds further to the visual space between the dwellings in comparison with the dismissed scheme. The reduction in units also now allows for improved soft landscaping in between the car parking with the front forecourts of the dwellings. These changes are considered sufficient to address the concerns raised by the Inspector.

Quality of residential accommodation proposed

All dwellings meet current internal space standards set out in the Essex Design Guidelines and National Technical Standards. They also provide acceptable levels of outlook and ventilation. All units meet amenity space standards required by Policies DM5, DM9 and DM10 of the Local Plan. The quality of the proposed accommodation is therefore considered acceptable.

Impact on the living conditions of neighbouring residential occupiers

The Planning Inspector in his dismissal of EPF/0384/21 noted that the ridge height of the proposed dwellings "would not substantially increase the maximum built height of the built form at the site" However he did raise concerns about the width and bulk of that proposal causing loss of outlook and privacy.

The height of this proposal is the same as previously proposed under EPF/0384/21 and will be 0.85m higher than the height of the existing bungalow. However, given that this maximum height is at the apex of the hipped roof, results in the design reducing the overall mass of the roof, and will visually move further away from the rear neighbours and reduce in width the higher they reach. It is therefore considered that the proposal will have significantly less impact upon the neighbours in terms of dominance than the dismissed scheme.

Furthermore, the three detached dwellings will replace a 17.76m wide chalet bungalow (not including the single storey extensions) and as a result will break up the solid mass of development on the site to provide two open views through the site. This is a positive feature of the scheme.

The depth of the houses has also been reduced so that they no longer extend beyond the line of the rear elevation of the existing chalet bungalow. The second-floor dormer windows have been removed and the number of first floor windows has been reduced from 8 to 6. The highest point of the first-floor windows has also reduced from 5.28m to 4.93m.

The Design and Access Statement indicates that the finished floor levels will be dropped by 0.27m. This will further reduce the perception of the height of the proposal. It is recommended that further details are conditionally required to ensure that this is the case.

To the rear of the application site, there are two storey dwellings situated within the adopted highway section of The Plain. The rear gardens of the new houses would be 11.74m long and new planting is proposed along the shared boundary. The window-to-window distance between the proposed houses and nearest neighbouring dwelling to the west (rear) would be 22.5m. These distances reflect the layout of development within the surrounding area and therefore are considered acceptable.

The proposed *Betula Jaquemnotii* (Birch) trees can grow up to 15m but are deciduous and therefore given the distance from neighbouring properties to the rear would provide some natural screening from the development without causing excessive loss of light.

It is for these reasons noted that whilst 78 and 80 The Plain have rear gardens which are on lower ground than the application site, the impact to these dwellings will not be excessive in terms of dominance and overlooking. The amendments made are therefore considered sufficient to overcome concerns raised by the Planning Inspector in his dismissal of EPF/0384/21.

The proposed new dwellings would be situated immediately adjacent to a parking area to the north. To the south is a detached bungalow with an attached annexe that forms the shared boundary and extends back to the end of the rear gardens. Whilst upper storey flank windows are proposed in the new dwellings, they serve bathrooms and plans have been annotated to confirm that they will be obscured and fixed shut to a height of 1.7m. This feature can also be required by condition. Due to this there would be no immediate physical impact on the amenities of the immediately adjacent dwellings within this unmade lane.

The distance between the front windows of the proposed dwellings and the rear boundaries of properties in Kingswood Park is some 14m and again would not be considered unacceptable in this location. This distance was also found acceptable by the Planning Inspector.

The distance between the new dwellings and all shared boundaries would be sufficient to ensure that there is no undue loss of light or outlook to neighbouring residents. Some objections have been received about the loss of the existing open view as a result of the development, however there is no right to a view and therefore any loss of such views is not material to the planning merits of the case.

Concerns have been raised about potential additional noise nuisance through the provision of three new dwellings in place of the existing chalet bungalow. Whilst it is accepted that there would be some additional vehicle and pedestrian movements and general activity on the site as a result of the redevelopment, given the context of the site (including the 132 dwellings erected on the adjacent former hospital site), it is considered that this would not cause any significant additional impact.

Concerns have also been raised with regards to disturbance, nuisance and parking problems as a result of construction works, however such matters are not material planning considerations as this harm would only be temporary during the period of construction. Time constraints for construction works can however be secured by way of a condition in order to minimise any detrimental impact on neighbours during construction.

The conditions suggested by neighbour are agreed by the applicant and therefore are recommended to be attached to any permission.

It is for these reasons considered that the revised plans overcome the previous reasons for refusal and dismissal and as such complies with the requirements of policy DM9 (I).

Epping Forest Special Area of Conservation

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 concluded 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 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 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 this application pertinent to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

Recreation activities arising from new residents (recreational pressures); and

Atmospheric pollution as a result of increased traffic using roads through the EFSAC.

Stage 1: Screening Assessment

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

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.

The development has the potential to 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 both the recreational pressures and atmospheric pollution Pathways of Impact.

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 both the recreational pressures and atmospheric pollution Pathways of Impact.

Stage 2: 'Appropriate Assessment'

Recreational Pressures

The application proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the Epping Forest SAC SAMM Strategy Partnership Agreement,

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 this Approach. In doing so the Council has sought to take a proportionate approach to the securing of such financial contributions, and currently seeks £1852.63 per net additional dwelling 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. 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.

Atmospheric Pollution

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of an Interim Air Pollution Mitigation Strategy (IAPMS), has provided a strategic, district wide approach to mitigating air quality impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the IAPMS. The applicant has agreed to make a financial contribution in accordance with the IAPMS. In addition, the application will be subject to planning conditions to secure measures as identified in the IAPMS. 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 and the imposition of relevant planning conditions.

Conclusions:

The Council is satisfied that, subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions as set out above, the application proposal would not have an adverse effect on the integrity of the EFSAC.

Trees

The application was reviewed by the Trees Officer who found the submitted Tree survey and Arboricultural Method Statement demonstrated that the health and stability of existing trees on the site would not be harmed. It is therefore considered that subject conditions suggested by the Trees Officer this application complies with the requirements of DM5 of the Local Plan.

Highways:

Several objections have been raised about insufficient parking provision on the development. The ECC Vehicle Parking Standards requires two off-street parking spaces for any 2+ bed dwelling, which is being provided on the site.

Furthermore, given the location of the site within the urban town of Epping and its proximity to sustainable transport links and various facilities, therefore this provision is considered acceptable.

This section of The Plain is privately owned. Concern has been raised about the detrimental impact that the development would have on capacity and road safety both within The Plain itself and at its junction with Epping Road. Essex County Council Highways have raised no objection to the development. It is not considered that the additional traffic associated with this small development would cause any significant additional harm to traffic or highway safety and as stated above, sufficient off-street parking provision is provided to ensure that there would not be excessive overspill onto on-street parking within the locality.

Furthermore, the Planning Inspectors for the dismissed appeals under reference EPF/1111/19 and EPF/0384/21 made a visit to the site prior to the completion of his decision letter and did not raise any objection to this position.

A condition is required to ensure that an electric charging point is provided for each of the new dwellings to encourage and facilitate the use of electric cars, which would assist in improving air quality within the District in accordance with policy T 1 of the LP.

Ecology

Policy DM 1 of the LP requires 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 and provides for open spaces for people and other species to thrive.

A bat survey report dated June 2019 and Preliminary Ecological Appraisal dated March 2019 has been carried out by T4 Ecology Limited who found evidence of bats within the existing building; they therefore recommend further dusk dawn surveys to be carried out by licensed bat worker to determine the extent of the bat population, and whether a European Protected Species Licence is required. If bats are discovered a third survey would be required and mitigation designed accordingly. However given the age of the document, the evidence it contains in regard to other protected species cannot be considered up to date, therefore a pre-commencement condition is recommended which requires that the report is updated and the recommendations of the updated report be implemented.

These requirements should therefore be attached as conditions to any permission to ensure compliance with DM1 of the LP.

The Biodiversity Gain Plan submitted with the application also indicates that there will be a biodiversity net gain of 16.29%, this will predominately be achieved through the planting of two trees at along the rear boundary and two new trees proposed at the front of the property. However again given that the background information on which this plan is based, is out of date this analysis should also be updated. It is on this basis that the proposal meets the requirements of policy DM1 of the Local Plan.

Conclusion:

The revised design addresses the concerns the Inspector raised under EPF/0384/21. It is therefore considered that the proposal has an acceptable design which will not cause excessive harm to the amenity of neighbouring dwellings. Sufficient parking has been provided for this sustainable location and no objections have been raised by the Highways Authority in relation to highway safety.

The proposal therefore complies with relevant planning policy, and it is recommended that planning permission be granted subject to conditions and the completion of a S106 Legal Agreement to secure appropriate financial contributions for the management and monitoring of visitors to the Epping Forest Special Area of Conservation and a contribution towards measures to mitigate air quality as set out in this report.

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: Sukhi Dhadwar
Direct Line Telephone Number: 01992 564597***

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



Appeal Decision

Site visit made on 14 November 2023

by **Stuart Willis BA Hons MSc PGCE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/J1535/W/22/3296440
Wyldingtree, 66 The Plain, Epping CM16 6TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Manor Properties (Bishop's Stortford) Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/0384/21, dated 25 January 2021, was refused by notice dated 9 March 2022.
 - The development proposed is demolition of existing bungalow and construction of 2x pairs of semi-detached houses with associated parking and gardens.
 - This decision supersedes that issued on 2 February 2023. That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Manor Properties (Bishop's Stortford) Ltd against Epping Forest District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the refusal of the proposed development, the Epping Forest District Local Plan 2011 to 2033 Part One (LP) has been adopted and has superseded the Epping Forest District Local Plan Adopted July 2006 referred to in the decision notice. The main parties have had opportunity to comment.
4. The effect of the proposal on privacy and light at 78 and 80 The Plain were not included in the refusal reasons. However, they were raised by third parties and the appellant had opportunity to comment on these matters. Therefore, they would not be prejudice by them forming part of the main issues.

Main Issues

5. The main issues of the appeal are the effect of the proposed development on:
 - The character and appearance of the area; and
 - The living conditions of the occupiers of 78 and 80 The Plain, with particular regard to outlook, privacy, daylight and sunlight.

Reasons

Character and appearance

6. There are a mix of property designs, sizes and spacing in the nearby streets. Properties range from three storey blocks of flats to bungalows. The scale of the appeal property and it being set in from its boundaries with a hipped roof, gives a spaciousness and break in the built form. Although untypical, this contributes positively to the area and is experienced from various public vantage points within The Plain and Kings Wood Park as well as from properties themselves.
7. The proposed properties would fill a large proportion of the plot with only small gaps to the built form either side or between the pairs themselves. This would erode the existing greater spaciousness of this part of the streetscene. Nevertheless, the streets in front and backing onto the site often have relatively small gaps between many of the properties. As a result, the scheme would not be significantly different to that of the more tight-knit layout nearby and the harm would be minor.
8. While taller and with higher eaves than the property they replace and some of those nearby, there are similar height blocks of built form that the proposed dwellings be seen with. There are 3 storey buildings at the B road frontage and other 2 storey properties at The Plain. Kings Wood Park backs on to the site with vegetation between. However, while being semi-detached, the footprint of each proposed pair would not be of a dissimilar bulk and appearance to some of the detached properties with accommodation in the roof space at Kings Wood Park. As such, the massing of the pairs would not be incongruous with the scale of the nearby built form.
9. The external materials would draw on those at the properties already present in the area. Although examples of dormer windows were not frequent in The Plain, they are present, albeit of a different design, at the existing property. Though not in the same street, numerous dormers at Kings Wood Park can be seen from various locations within The Plain and as such, those proposed, would not be an alien feature. Moreover, their size and spacing across the roofs mean they would not appear bulky. There are a variety of roof shapes nearby and no consistency to the roofscape. So, while the external appearance of the proposed properties would not mirror any nearby, they would still not be discordant.
10. Landscape features to the front of the site would be replaced by hard surfaced parking areas. However, frontage parking is not uncommon and already takes place at the site and to a lesser degree elsewhere in The Plain. Were the appeal to be allowed, conditions relating to the retention of landscape features and proposed planting could be imposed.
11. Nonetheless, the proposed development would cause minor harm to the character and appearance of the area. It would therefore be contrary to Policies SP2 and DM9 of the LP where they require schemes to maintain, enhance and respond positively to local character.

Living conditions

12. The existing property has first floor accommodation and the proposal would not substantially increase the maximum height of the built form at the site.

Nevertheless, the proposed pairs of properties would fill much more of the width of the site. This would result in a significant expanse of built form stretching across much more of the plot, especially at upper floor levels than the existing dwelling. Moreover, the proposed dwellings would be positioned closer to 78 and 80 The Plain with gable rather than partly hipped roofs.

13. These factors, along with the steeper sloping rear roof slope, crown roof and higher eaves, would result in 2 imposing blocks of built form as experienced from the gardens of 78 and 80 The Plain. Currently the lower height and greater set in from the boundaries of the site means there is an outlook either side and beyond the appeal property even with lower ground levels behind. In contrast, having visited them, from the rear garden and rooms at 78 and 80, whose windows face directly towards the appeal site, the proposed properties would become the dominant feature. Even if existing boundary features were retained, and with future planting that would take time to mature, the scheme would result in an oppressive and unacceptable outlook for the occupiers of these properties.
14. The existing rear first floor windows at the appeal site facing 78 and 80 The Plain result in some degree of overlooking into their gardens and rear rooms. Some overlooking also takes place from the 3 storey properties nearby. However, these are more distant or angled than the first and second floor windows proposed. The appeal scheme would introduce additional windows, across more of the site and at a higher level with the dormers. As the rear first and second floor windows serve bedrooms, it would not be appropriate to require them to be obscure glazed and non-opening. Along with the position of the proposed dwellings, the appeal scheme would cause additional overlooking at a closer distance and greater height over and between boundary treatments and landscape features. The scheme would result in an unacceptable reduction of privacy for the occupiers of 78 and 80 The Plain.
15. Given the orientation of the existing and proposed properties and the direction of travel of the sun, the effect on sunlight, would be limited to later in the day. Although wider, the height of the properties would not be substantially different from the existing one. There would be some reduction in sunlight and daylight reaching the rear of the adjacent properties and their gardens at certain times of the day and year. However, I saw that the existing property, others nearby and the existing landscape features already cause shading at the rear of the properties behind. Consequently, given the separation distances involved, the proposal would not lead to excessive loss of daylight and sunlight at 78 and 80 The Plain.
16. Nevertheless, the proposed development would significantly harm the living conditions of the occupiers of 78 and 80 The Plain with regard to outlook and privacy. It would be contrary to Policy DM9 of the LP where it seeks to protect the quality of amenity.

Other Matters

17. The effect on the living conditions of the occupiers of nearby properties was not a reason for dismissing the first appeal at the site¹. Such considerations and the views from the streetscene of the gaps/spacing between buildings were not

¹ APP/J1535/W/19/3239786

specifically addressed by that Inspector. Therefore, my findings on these matters are not inconsistent with the previous appeal decision.

18. That the Council made their decision against the officer recommendation does not alter my findings.

Planning Balance

19. The LP was adopted in March 2023 and therefore, in line with footnote 40 of the Framework is no longer considered a recently adopted plan with regard to paragraph 75 of the Framework for demonstrating a five-year supply of deliverable housing sites, with the appropriate buffer. The evidence before me indicates that historic completions have primarily been below the average housing requirement set out in the development plan.
20. Notwithstanding this, there is no compelling evidence before me that the Council are currently unable to demonstrate a five-year supply of housing sites. In any event, the Housing Delivery Test figure, at 35% means that paragraph 11d of the Framework is engaged.
21. There would be economic and social benefits from the additional supply of housing and from the build and occupation of the properties. Given the scale of the scheme and in light of the delivery figures above, such benefits would be moderate.
22. Even if I were to agree there was no harm with regard to highway safety, biodiversity, and that the site is in an accessible location with appropriate space for future occupiers, a lack of such harm would only be a neutral factor.
23. During the appeal a planning obligation was submitted relating to contributions towards mitigation measures relating to the effects on the Epping Forest Special Area of Conservation (SAC). The planning obligation has not been dated. However, notwithstanding the planning obligation, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons. In any event, a satisfactory planning obligation to secure mitigation for effects on the SAC would only be a neutral factor.
24. I have found there would be minor harm to the character and appearance of the area and significant harm to the living conditions of certain nearby occupiers. The policies that the scheme conflicts with are broadly consistent with the National Planning Policy Framework (Framework). As such, and due to the degree of harm I have identified, I give the conflict with these policies minor (character and appearance) and substantial (living conditions) weight. The proposal conflicts with the development plan as a whole.
25. The proposal would align with the aim of the Framework to significantly boost the supply of housing. It would accord with the economic policies of the Framework from the build and occupation of the dwellings and where it recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. Taking account of the scale of the scheme and the delivery figure, such benefits would be moderate. It would conflict with the Framework where it requires schemes to be sympathetic to local character and a high standard of amenity for existing users. These conflicts attract minor and substantial weight respectively.

26. Even with the level of shortfall in delivery and any possible lack of supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the scheme does not benefit from the presumption in favour of sustainable development as set out in the Framework.

Conclusion

27. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

28. Therefore, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR

Conditions: (21)

- 1 The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
3037/01, 3037/10A, 3037/11A, 3037/12A, 3037/13A, 3037/14A, Design and Access Statement, Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment by Brown 2 Green 2263/Rpt 1v2 February 2024, Soft Landscaping and Planting Specification, Arboricultural and Impact Assessment by Moore Partners 07/03/24, MP/66PLA/01, MP/66PLA/02, Report to inform Habitat Regulations Assessment 29/2/24 by Arbtech, Preliminary Ecological Appraisal incorporating Bat Survey Inspection March 2019 and Bat Survey Report Ltd June 2019 by T4 Ecology Ltd, Annex Baseline Map, Biodiversity Net Gain metric spreadsheets, Biodiversity Net Gain Plan.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

- 3 Prior to preliminary ground works taking place, details of foul and 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.

Reason: To ensure satisfactory provision and disposal of foul and surface water in the interests of Land Drainage, in accordance with Policies DM16 & DM18 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 4 Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with Policy DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 5 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped and an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) shall be undertaken. If any contamination is found then the site shall be remediated. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. To ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property, and ecological systems, and to ensure that the development is carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy DM21 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 6 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. 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.

Reason: To comply with requirements of Section 197 of the Town and Country Planning Act 1990 as well as to safeguard the amenity of the existing trees, shrubs or hedges and to ensure a satisfactory appearance to the development, in accordance with Policies DM3 & DM5 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 7 Hard and soft landscaping shall be implemented as shown on Moore Partners Ltd 'Landscape Plan' drawing number MP/66PLA/02 (dated 08/03/2024); and the accompanying planting schedule. The works shall be carried out prior to the occupation of the building or completion of the development. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policies DM3 and DM5 of the Epping Forest District Local Plan 2011-2033, and the NPPF 2023.

- 8 Tree protection shall be installed as shown on Moore Partners Ltd 'Tree Constraints / Protection Plan' drawing number MP/66PLA/01 (dated 07/03/2024) prior to the commencement of development activities (including any demolition).

The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policies DM3 and DM5 of the Epping Forest District Local Plan 2011-2033, and the NPPF 2023.

- 9 Prior to the commencement of any works a bat scoping survey should be undertaken in accordance with guidelines from Natural England (or other relevant body). These should be submitted to the Local Planning Authority for approval.

Should the surveys reveal the likely presence of bats or their breeding sites or resting places then dusk /dawn surveys should be undertaken in accordance with guidelines available from Natural England (or other relevant body) and submitted to the Local Planning Authority for approval. Should the survey reveal the presence of bats, or their breeding sites or resting places an appropriate and proportionate detailed mitigation and

compensation strategy must be written in accordance with any guidelines available from Natural England and submitted to EFDC for approval.

Should a Natural England European Protected Species Licence (EPS) be required then this should also be submitted to EFDC for approval. The licence will get granted if the activity conforms to the Habitats Regulations Regulation 53 Three Stage Test and Local Authority planning consent has been granted. All works shall then proceed in accordance with the approved strategy with any amendments agreed in writing.

Reason: In order to conserve protected species or their breeding sites, or resting places in accordance with Policy DM1 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

10 The submitted Preliminary Ecological Assessment submitted with the application is out of date, therefore further ecological surveys shall be commissioned to:

i. establish if there have been any changes in the presence and/or abundance of protected species

ii. identify any likely new ecological impacts that might arise from any changes.

Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of the development hereby approved.

Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

If any protected species are identified in the new surveys that were not previously known to be on site, and are likely to be harmed by the development, then a protected species licence might be required before works can commence.

Reason: To allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended), s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species) and policy DM1 of the Adopted Epping Forest District Local Plan (2023) . This is required to be a pre-commencement condition as otherwise there would be a risk of harm to important wildlife habitat and species.

11 No development shall take place until an Ecological Design, Management and Monitoring Strategy (EDMMS) for the provision of a minimum 10% biodiversity net gain has been submitted to and approved in writing by the local planning authority. The EDMMS shall include the following:

- a. Description and evaluation of habitat/features proposed (to include full Metric (using most current version) and details of condition assessments).
- b. Identification of adequate baseline conditions (for management and monitoring purposes) prior to the start of works (to include full Metric (using most current version) and details of condition assessments).
- c. Aims and objectives for the proposed works.
- d. Site specific and wider ecological trends and constraints that might influence works.
- e. Details of the body/ organisation/ person/s responsible for undertaking the works and lines of communication.
- f. Details of the legal and funding mechanism(s) by which the implementation of the EDMMS will be secured by the developer with those responsible for its delivery.
- g. Detailed design and/or working methods to achieve stated objectives including type/source of materials, disposal of any wastes arising from works and appropriate scale plans showing location/area of proposed works.
- h. Works Schedule, aligned with any proposed phasing and including an annual work plan capable of being rolled forward over a five-year period.
- i. Prescriptions for initial aftercare and long-term management that will ensure the aims/objectives are met.
- j. Details for on-going monitoring in years 2, 5, 10, 15, 20, 25 and 30, including:
 - Appropriate success criteria, thresholds, triggers, and targets against which the effectiveness of the work can be measured.
 - Methods for data gathering and analysis.
 - Location, timing, and duration of monitoring
 - Review, and where appropriate, publication of results and outcomes, including when monitoring reports will be submitted to the local planning authority.
 - How contingencies and/or remedial action will be identified, agreed with the local planning authority, and implemented so that the original aims/objectives of the approved scheme are met.

The EDMMS shall be implemented in accordance with the approved details and all habitats/features shall be retained in that manner thereafter.

Reason: To ensure measurable net gains to biodiversity and in accordance with the Environment Act 2021 and policy DM1 of the Adopted Epping Forest District Local Plan

(2023) . This is required to be a pre-commencement condition by virtue of schedule 7A to the Town and Country Planning Act 1990.

- 12 Prior to any above ground works, details of levels shall have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.

Reason: To ensure the impact of the intended development upon adjacent properties and the street scene is acceptable, in accordance with Policy DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 13 The solar panels shall be installed in accordance with the details shown on plan numbers 3037/10, 3037/11, 3037/12, 3037/13 and 3037/14 unless otherwise agreed in writing with the Local Planning Authority.

Reason: To promote sustainable building design in accordance with Policies SP2, DM 9 and DM20 of the Epping Forest District Council Local Plan Submission Version 2017.

- 14 Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point shall be installed per dwelling in accordance with the details shown on plan 13 A and retained thereafter for use by the occupants of the site.

Reason: To help support improvements to air quality in accordance with Policies T1 & DM22 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 15 Prior to first occupation, the applicant/developer shall ensure that each dwelling has been provided with the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service.

Reason: To ensure the development contributes to supporting improved digital connectivity throughout the District and supports the wider aims and objectives for reducing car-led air pollution, improving the health and wellbeing of residents and visitors including the EFSAC, in accordance with Policies D5, DM2, DM9 & DM22 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 16 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.

Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability, in accordance with Policy DM19 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 17 Prior to first occupation of the development hereby permitted a plan indicating the position, design, materials, and type of boundary treatment to be erected, shall have been submitted to an approved by the Local Planning Authority, in writing. The approved boundary treatment shall be implemented prior to first occupation of the development and so retained.

Reason: To ensure the satisfactory appearance of the development, in accordance with Policy DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 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) no development permitted by virtue of Classes A, B and E of Part 1 to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority.

Reason: The ensure further consideration is given with regards to the effect on the character and appearance of the area and living conditions on adjoining properties in accordance with Policy DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 19 Prior to first occupation of the building/extension hereby permitted the window(s) in the southern flank elevation(s) at first floor level and above, shall have been fitted with obscure glass with a minimum Pilkington privacy level 3 obscurity (or equivalent), 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 at these specifications thereafter.

Reason: To prevent overlooking and loss of privacy to the occupants of neighbouring properties, in accordance with Policy DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 20 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

1. The parking of vehicles of site operatives and visitors
2. Loading and unloading of plant and materials
3. Storage of plant and materials used in constructing the development

4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
5. Measures to control the emission of dust and dirt during construction, including wheel washing. With regards to dust control measures and wheel washing, reference shall be made to the Institute of Air Quality Management (IAQM) best practice Guidance on air quality monitoring in the vicinity of demolition and construction sites and Guidance on the assessment of dust from demolition and construction.
6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
7. Tree protection measures.

Reason: To limit the impact of the construction work on the living conditions of residents living in close proximity to the site, in accordance with Policies DM9 & DM21 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 21 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 08:00 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.

Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours, in accordance with Policies DM9 & DM21 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

Informatives: (2)

- 22 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 23 Where existing buildings may contain Asbestos Containing Materials (ACM's):-
The applicant is required to ensure that all contractors involved in the demolition and site clearance works are aware of the requirements of the Control of Asbestos at Work regulations 2012. It is essential that an asbestos survey is undertaken and where ACMs are discovered, risks are appropriately managed, ensuring safe removal and disposal offsite by Specialist contractors in accordance with good practise and current HSE guidance. Further, it is the Responsibility of the developer to ensure measures are put in place to prevent contamination of the soils during such works. Evidence may therefore be required by The LPA as part of the contaminated land condition to show that any ACMs, identified following a required asbestos survey, have been appropriately disposed from site.

