

**Report Item No: 1**

<b>APPLICATION No:</b>	EPF/0849/10
<b>SITE ADDRESS:</b>	Holmsfield Nursery Meadgate Road Nazeing Essex
<b>PARISH:</b>	Nazeing
<b>WARD:</b>	Lower Nazeing
<b>APPLICANT:</b>	Mr J Connors
<b>DESCRIPTION OF PROPOSAL:</b>	Retention of use of site for eight private gypsy plots to replace previous temporary consent.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

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

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=517690](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=517690)

**CONDITIONS**

- 1 The site shall only be occupied for residential purposes by the following named persons and their resident dependants:

Margaret Brien  
Margaret Brien  
Helen Brien  
Bridget Brien  
Kathleen Connors  
Ann-Marie Connors

Joseph Connors  
Julie Connors  
Margaret Connors  
Edward Connors  
Patrick Brien  
Mary Brien

Patrick Brien  
Ann Brien  
Ann Brien  
Elizabeth Brien  
Miles Brien  
Elizabeth Brien

John Brien  
Kathleen Brien

Patrick Connors  
Elizabeth Connors

Johnny Connors  
Edward (Ned) Connors

Patrick Brien  
Ann-Marie Brien  
Helen Delaney

Tom Brien  
Margaret Brien  
Jim Brien  
Ann Brien  
Martin Brien  
Margaret Brien  
Jim Brien

John Connors  
Mary Connors  
Jim Connors  
Ann Connors  
Ann Brien

- 2 No more than the following number of caravans as defined in the Caravan Sites and Control of Development Act 1968 shall be stationed on the site at any time:  
  
Plot 1: 4, of which no more than 2 shall be static caravans and mobile homes  
Plot 2: 3, of which no more than 2 shall be static caravans and mobile homes  
Plot 3: 4, of which no more than 2 shall be static caravans and mobile homes  
Plot 4: 3, of which no more than 1 shall be static caravans and mobile homes  
Plot 5: 3, of which no more than 1 shall be static caravans and mobile homes  
Plot 6: 3, of which no more than 2 shall be static caravans and mobile homes  
Plot 7: 4, of which no more than 2 shall be static caravans and mobile homes  
Plot 8: 4, of which no more than 1 shall be static caravans and mobile homes
- 3 No caravans shall be stationed, no means of enclosure shall be erected, no hard surface shall be laid and no further vehicular access to Meadgate Road shall be formed on the land between Meadgate Road and the 8 plots as shown hatched on Plan A submitted with this application.
- 4 The site shall be used for residential purposes only and no commercial, industrial or retail activity shall take place on the site, including the storage of goods, materials or other items not ancillary to the residential use. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the land.
- 5 The hedge on the boundary of the site with Meadgate Road shall be retained in its entirety and shall not be reduced below a height of 2.5 metres above ground level.
- 6 Within 3 months from the date of the decision, or within a time scale otherwise agreed in writing with the Local Planning Authority, the disused building and water tanks within the northern section of the site and the disused building marked 'shed' on Plan Ref: JC:01 shall be demolished and all associated materials shall be removed from the site.
- 7 Within 3 months from the date of this decision, details of foul and surface water disposal shall be submitted to and approved in writing by the Local Planning Authority, and any drainage works shall be implemented and retained thereafter in

accordance with such agreed details.

- 8 Within 3 months from the date of this decision, a contaminated land assessment shall be submitted to the Local Planning Authority to determine the risks from contaminants at the site in accordance with an agreed protocol. Should any contaminants be found in unacceptable concentrations, appropriate remediation works shall be carried out and a scheme for any necessary maintenance works adopted. Following any necessary remediation, a completion report and any required maintenance programme shall be submitted to and agreed in writing by the Local Planning Authority.
- 9 If any of the requirements of conditions 7 and 8 of the decision are not met, the use of the site for the stationing of mobile homes shall cease within 28 days and the land returned to its condition prior to the commencement of the use, and all mobile homes, caravans, fencing other than that to the northern and eastern site boundaries, and hard surfacing laid in connection with the use shall be removed from the land.

*This application is before this Committee since it is an application for residential development of 5 dwellings or more and is recommended for approval (Pursuant to Section CL56, Schedule A (d) of the Council's Delegated Functions).*

**Description of Proposal:**

Permanent consent is being sought for the eight private gypsy plots currently on site, which benefit from a temporary consent until June 2013. The site currently contains eight private pitches, which would remain unchanged with this proposal. It is further proposed in this application that the disused buildings on site be demolished and removed and additional landscaping be installed.

**Description of Site:**

The application site is an irregular 1.4 hectare area of land accessed from the south side of Meadgate Road some 120m west of its junction with Sedge Green. The site is located within the Metropolitan Green Belt and the Lee Valley Regional Park (LVRP). The site is bounded to the east by a detached house and Sedgeregren Nursery, to the south and west by open scrubland, and opposite the site to the north is a general industrial site.

The site is divided into two clearly defined areas. The northern section is some 0.5 hectares and is unused, largely grassed, and contains a disused building and water tanks. The southern area of approximately 0.9 hectares is predominantly hard surfaced and contains the eight existing pitches, as well as a large disused former agricultural building.

**Relevant History:**

The application site has a number of previous planning applications relating to its former agricultural/horticultural use. However the only relevant planning application in relation to this proposal is:

EPF/1340/05 - Change of use of the land to a private gypsy site – refused on the following grounds:

1. *The site is within the Metropolitan Green Belt and the use of the land to provide a private gypsy caravan site in isolation is inappropriate development that is by definition harmful to the Green Belt. The scale of the proposal, its retention of made ground over the land, the stationing of caravans and vehicles, erection of ancillary structures and means of enclosure together with the normal everyday activities of people living on the land the proposal would cause significant harm to the openness of the Green Belt and only serve to perpetuate the acknowledged harm caused by the existing unlawful use and undermine the purposes of including the land in the Green Belt. It has not been demonstrated that very special circumstances sufficient to overcome this harm exist in this particular case. Accordingly the proposal is contrary to policies CS2, CS4, C2 and H6 of the Essex and Southend on Sea Replacement Structure Plan, adopted April 2001 and to policies GB2 and H11 of the Epping Forest District Local Plan, adopted January 1998.*

2. *Due to the scale of the proposal, its retention of made ground over the land, the stationing of caravans and vehicles, erection of ancillary structures and means of enclosure it would fail to respect the landscape and tranquil rural setting of this part of the Lee Valley Regional Park, containing well-used recreational facilities and cause permanent damage to the character of the countryside. Accordingly, the proposal is contrary to policy NR1 of the Essex and Southend on Sea Replacement Structure Plan, adopted April 2001 and policy LL2 of the Epping Forest District Local Plan, adopted January 1998.*

3. *Insufficient information has been provided to demonstrate whether the risk to the development by flooding is acceptable and whether the impact of the development on the risk of flooding of adjacent land is acceptable. Accordingly, the proposal is contrary to policy NR12 of the Essex and Southend on Sea Replacement Structure Plan, adopted April 2001 and policy U2 of the Epping Forest District Local Plan, adopted January 1998.*

4. *Insufficient information has been provided to demonstrate whether the risk of off-site contamination to the development is acceptable. Accordingly, the proposal is contrary to policy NR12 of the Essex and Southend on Sea Replacement Structure Plan, adopted April 2001 and policy U2 of the Epping Forest District Local Plan, adopted January 1998.*

5. *The existing means of disposal of sewage effluent is unsatisfactory and in the absence of any acceptable alternative proposals for the disposal of sewage effluent the proposal is likely to result in an unacceptable risk of pollution to the water environment. Accordingly, the proposal is contrary to policy NR12 of the Essex and Southend on Sea Replacement Structure Plan, adopted April 2001 and policy RP3 of the Epping Forest District Local Plan, adopted January 1998.*

6. *In view of reasons 1 and 2 above the proposal fails to comply with criteria (c) and (e) referred to in the supporting text for policy H11 of the Epping Forest District Local Plan, adopted January 1998. Moreover, there are no very special circumstances that would justify making an exception to Green Belt policies of restraint and the proposal would cause harm to the openness of the Green Belt and the character of the countryside. The proposal therefore conflicts with policy H11.*

A subsequent enforcement notice was served against the site and appealed. This appeal was allowed by the Planning Inspectorate on 14 December 2007, and the decision was upheld by the Secretary of State on 13 June 2008, however only granted temporary consent for a period of 5 years from the date of the decision.

The Planning Inspector concluded that a temporary permission would ensure that the harm identified to the Green Belt and LVRP would be relatively short lived and that the other material considerations in the case outweigh such a temporary harm to the openness of the Green Belt by

way of inappropriateness and the harm to the character and appearance of the LVRP. The Secretary of State agreed with the Planning Inspectors decision.

**Policies Applied:**

CP1 – Achieving sustainable development objectives  
CP3 – New development  
GB2A – Development in the Green Belt.  
GB5 – Residential moorings and non-permanent dwellings  
GB7A – Conspicuous development  
H10A – Gypsy caravan sites  
RP3 – Water quality  
RP4 – Contaminated land  
RST24 – Design and location of development in the LVRPA  
LL1 – Rural landscape  
LL2 – Inappropriate rural development

**Summary of Reps:**

7 neighbouring properties were notified and a Site Notice was erected on 25/05/10. The following representations were received:

PARISH COUNCIL – The application was discussed at length with an even split between the councillors. The objections against were that the application was pre-empting any decisions on gypsy and traveller sites as there was still 3 years to run on temporary consent. Those councillors in favour felt that this should not remain in limbo and felt that the site should have some permanence.

LEE VALLEY REGIONAL PARK AUTHORITY – Object to the application on the grounds that the permanent use of the site to accommodate gypsies and travellers conflicts with the provisions of the Lee Valley Regional Park Act 1966, the Lee Valley Regional Park Plan 2000 and the draft Park Development Framework. The permanent use of the site would have an adverse impact upon the landscape and recreational value of the part of the Park if approved.

12 NAZEINGBURY PARADE – No objection.

22 NAZEINGBURY PARADE – No objection.

THE FISH & EELS, DOBBS WEIR ROAD – No objection.

PASLEA HOUSE, NURSERY ROAD – Support the application.

76 RISDENS, HARLOW – Support the application.

24 PENNY MEAD, HARLOW – Support the application.

COLTSWOOD, HAWES LANE, SEWARDSTONE – Support the application.

ST. THOMAS MORE & ST. EDWARD CATHOLIC CHURCH, ROCHFORD AVENUE, WALTHAM ABBEY – Support the application.

## **Issues and Considerations:**

### **Additional Information**

This application was deferred from a previous Committee meeting in order for Planning Officers to ensure that the applicant has satisfactorily complied with the conditions imposed by the Planning Inspector on the temporary consent. The outstanding conditions (stated within the original Committee report below) are regarding contaminated land issues and foul and surface water drainage.

Discussions have been undertaken between the applicant, the applicant's contaminated land specialists (SES Ltd.), the Council's Contaminated Land Officer and Planning Officers. Details were originally submitted shortly after the grant of consent by the Planning Inspector and discussions took place between the applicant and Environmental Services. Unfortunately the submitted documentation was considered inadequate to discharge these conditions, and no suitable details were ever agreed. Additional information has been submitted with regards to the ground gas contamination issues, which includes evidence of the mobile homes being on raised platforms that utilise airbricks, water pipes and services being above ground and externally ventilated, and ventilation space within the existing derelict buildings. There is also a high risk of exposure from asbestos potentially present in soils to the north of the site, however a fence has been erected around this area with 'danger keep out' signs warning people from using the area. Furthermore the land is not grazed or mowed, and therefore no disturbance is caused to the soil.

The LPA is therefore satisfied that the measures undertaken on site are satisfactory in terms of dealing with acute (short-term) exposure contaminants. Whilst there are chronic (long-term) exposure contaminants on site, which would need to be mitigated against if permanent consent is granted; as the existing planning permission is only for a temporary basis it would not be justifiable or appropriate to insist that these contaminants are dealt with as this would be a costly process that would be unnecessary if the site is only used for a temporary five year period. However, if permanent consent is granted then a further contaminated land condition would be required to ensure the chronic exposure contaminants are dealt with.

With regards to the foul and surface water drainage, Land Drainage were provided information in 2008 with regards to foul water drainage, which primarily focused on the cesspool tanks that were installed on the site. These details were considered insufficient to allow for the discharge of this condition and additional information was requested. No further information was received at this time. Discussions have been entered into with regards to the requirements of the site, and Land Drainage Engineers have recently visited the site to assess the current situation. Whilst a copy of a letter from Neil Kirsopp dated 25 August 2010 was received stating "*I can confirm that you have reinstated the culvert running underneath Holmsfield Nursery, as requested, by installing a new pipe, to the satisfaction of the engineers*", with specific regards to the conditions imposed by the Planning Inspector, the Land Drainage Engineers are still unsatisfied with the level of information submitted. They state within their memo to Planning Services that:

*"Whilst we acknowledge that the occupation of the site is temporary due to the five year time limit on the planning permission, the applicant has had several years to provide adequate provision for foul and surface water drainage. The condition was not onerous and an adequate foul system would be expected for any residential development of five years duration. In fact a condition on a permanent planning permission would have no additional requirements to the condition on this temporary permission. For any residential development, regardless of expected lifetime, adequate provision for foul drainage should be made for the maximum number of occupants in residence".*

Due to this it is considered that the requirements under condition 9 of the temporary planning consent granted by the Planning Inspectorate have not been met.

Concern was also raised by Councillors with regards to the submission of a Flood Risk Assessment, however the Environment Agency stated within their letter dated 4<sup>th</sup> October 2007 (in relation to the previous appeal) that *"the information provided is sufficient to enable us to withdraw our objection to the proposed change of use of the site. We are satisfied that the site is above the modelled flood level. In addition, we do not wish to request any conditions should the appeal be allowed"*. Due to this no condition requiring the submission of a Flood Risk Assessment was imposed by the Planning Inspectorate and no additional details regarding this were required to be submitted by the applicant.

Planning Officers are aware of the concerns raised by Councillors at the previous Committee Meeting, however are of the opinion that as two of the three issues raised have been dealt with to the satisfaction of the Local Planning Authority, and the third issue (regarding foul and surface water drainage) can be adequately dealt with by a further condition on a permanent consent, then the application is considered acceptable.

### **Original Report**

Policy H10A of the Local Plan Alterations states: *"In determining applications for Gypsy Caravan sites within the Green Belt the Council will have regard to (i) whether there are any very special circumstances which would justify an exception to the Green Belt policies of restraint, and (ii) The impact on the openness of the Green Belt and the character and appearance of the Countryside"*. The previous application was refused planning permission as it constituted inappropriate development in the Green Belt, was detrimental to the rural landscape and setting of the area, and due to flooding and contaminated land grounds; and it was considered that there were insufficient very special circumstances to outweigh this harm. Temporary consent was granted on appeal, and upheld by the Secretary of State, subject to conditions relating to land drainage and decontamination.

The site lies within the Metropolitan Green Belt and the proposal constitutes inappropriate development which, by definition, is harmful to the Green Belt. As such planning permission should only be given if there are very special circumstances that clearly outweigh this harm. The Secretary of State agreed with the Planning Inspector in that *"the development has a harmful impact on the openness of the Green Belt and is contrary to national policy"* and also that *"the unauthorised development is materially harmful to the landscape and the recreational values of the LVRP"*.

It was further stated by the Planning Inspectorate that the proposed very special circumstances would not *"clearly outweigh the harm to the openness of the Green Belt and by reason of inappropriateness and the harm caused to the character and appearance of the area and the landscape and recreational value of the LVRP, such as to justify the granting of permanent planning permission for the development"*. The Secretary of State subsequently agreed with this and stated that *"the unauthorised gypsy site should not be granted permanent permission"*.

It was however considered by the Planning Inspector that *"in terms of a temporary planning permission, the other material considerations in this case clearly outweigh the harm to the openness of the Green Belt and the harm by way of inappropriateness and the harm to the character and appearance of the area and the landscape and recreational value of the LVRP, such that very special circumstances exist"*. The Secretary of State agreed with this and considered that *"a temporary planning permission, subject to a number of conditions, strikes an appropriate balance in all the circumstances between the harm to the Green Belt, the landscape and the recreational value of the Regional Park and the acknowledged needs of the occupants"*.

Due to the previous decisions, the key consideration in the appeal are whether there are any further very special circumstances than previously put forward to outweigh the harm from a permanent site on this land.

The Planning Inspector previously recognised that it was very unlikely that sites within the built-up area of the district could be found for Gypsy and Traveller sites, however did conclude that the harmful impact of the development on the Green Belt should be given substantial weight in this instance. The applicant states that they are unable to identify other sites in the locality. Since the previous decision it has been verbally reported by the applicant that there are seven additional young children from those named in the temporary consent, plus two of the current occupants are pregnant. Furthermore, additional verbal comments have been given with regards to the individual needs and requirements of the occupiers named on the temporary consent.

Of these current occupiers, at least three are elderly residents with the standard health requirements associated with old age, two of the occupants have diabetes, one has heart problems and one suffers from stress and memory loss. Also there is a resident with mental health issues, one with an unknown (by the applicant) long term illness, and one with cerebral palsy. Whilst no evidence has been provided to confirm this, it is stated that this would be available if required. All the above are registered with local doctors and all young children attend local schools.

The previous appeal decision, based on the evidence provided at this time, stated that *"the educational needs (put forward) are not uncommon and are common to the general population. Whilst they are material considerations, they are not of great weight"*. The Planning Inspector also stated that *"the most common ailment of the residents of the site is asthma, but there is no indication of the severity of this"* and that *"the information provided does not show that the occupants that are experiencing health problems depend on the occupation of this particular site to access medical care and none of the health problems are uncommon"*. Whilst there are additional children to those named on the temporary consent, it is not considered that this has added any significant weight to this circumstance. It appears that the health problems of some occupiers of the site are more severe than previously considered, however it is uncertain as to whether this adds significant weight to the very special circumstances either.

A rather rudimentary and half-hearted attempt at landscaping the site boundary has been made by the applicant, which will improve with time and may soften the impact on openness, however the issues regarding the visual impact raised by the Planning Inspector remain valid. A development with this number of caravans is going to be prominent in the countryside whatever its location and regardless of the landscaping. The applicant has offered to undertake further landscaping on site, however it is considered by the Tree and Landscape section that any additional landscaping could really only be planted within the northern section of the site, where it would be ineffective in screening the harmful aspects of the site any more than the existing vegetation. However if additional screening is considered to improve the existing site then an additional landscaping condition could be sought. A longer-term and more successful solution would be for an appropriate and adequate landscaping scheme to be implemented along the south and west boundary of the southern section of the site, however this would be on land owned by the LVRPA and therefore is outside of the applicant's control.

Further to the offer of additional landscaping, the applicant has stated that they will remove the two disused buildings on the site. These buildings have a total footprint of approximately 120 sq. m. and are somewhat dilapidated and unsightly. Furthermore the large redundant building within the southern part of the site is relatively conspicuous from outside of the site. As such it is considered that the removal of these buildings would result in an improvement to the openness and character of the Green Belt.



Whilst the Planning Inspector previously stated that the development would result in an “*encroachment into the countryside*” they acknowledged that the character of the surrounding area is fairly built up and that the site is bordered by nurseries and there are commercial and residential premises nearby. Caravans are not an uncommon feature in the Regional Park and the recent planning history of the site (and the existing derelict buildings) indicate that this site itself was used as a nursery. As such it is probably many years since the site was ‘countryside’ in terms of having arable or pastoral uses.

Notwithstanding this, the Secretary of State previously concluded that a permanent consent would be “*materially harmful to the landscape and recreational values of the LVRP*”. Whilst the LVRP have objected to this proposal, it should be noted that they do not appear to have any definite intentions for the site, nor is it likely that any definite plans would be put forward in this area for some considerable time given the Authority’s concentration on the Olympics and budget constraints elsewhere. As such, denying a significant number of families a permanent home on the grounds of undetermined recreational intentions may be considered unreasonable.

Whilst both the direction requiring the production of the Gypsy and Traveller DPD and the East of England Plan (EEP) have been revoked, and subsequently the number of pitches stated within the EEP is no longer relevant, there is still a recognised need for additional Gypsy pitches in the District. The number of pitches is now based on the Essex Gypsy and Traveller Accommodation Assessment, which determines that Epping Forest requires 32.4 additional pitches by 2013. As such, these pitches still need to be accommodated in the District, however unlike the requirement of the DPD these are to be determined on an individual basis.

This site is one of the larger Gypsy and Traveller sites within the district and, despite the above, is in a better location than other existing sites (both lawful and unlawful). The local school and closest shops are under one mile away, and closest doctor is half a mile away. The access to the site is acceptable and is not detrimental to highway safety. The site, whilst visible from the south and west, would be seen within the context of the surrounding nurseries and industrial units, and the site itself is well kept and causes no complaints or nuisance to neighbouring sites or occupiers. If permanent permission is not granted for the site then the families will have to move elsewhere at the end of the temporary period. The Planning Inspector admits that “*additional gypsy site provision is likely to be in the Green Belt and the primary determining issues are likely to be the nature of the land and its suitability for purpose rather than its Green Belt designation*” and as such it is almost a certainty that any additional sites that the occupiers relocate to will have similar Green Belt problems, and possibly others.

Despite the previous conditions placed on the temporary consent, it appears that the details regarding foul and surface water drainage and decontamination have not been submitted and agreed by the Local Planning Authority. However, as previously imposed by the Planning Inspector, these can be sought by conditions. Should these conditions not be complied with then the relevant Enforcement Action can be taken in respect of this.

### **Conclusion:**

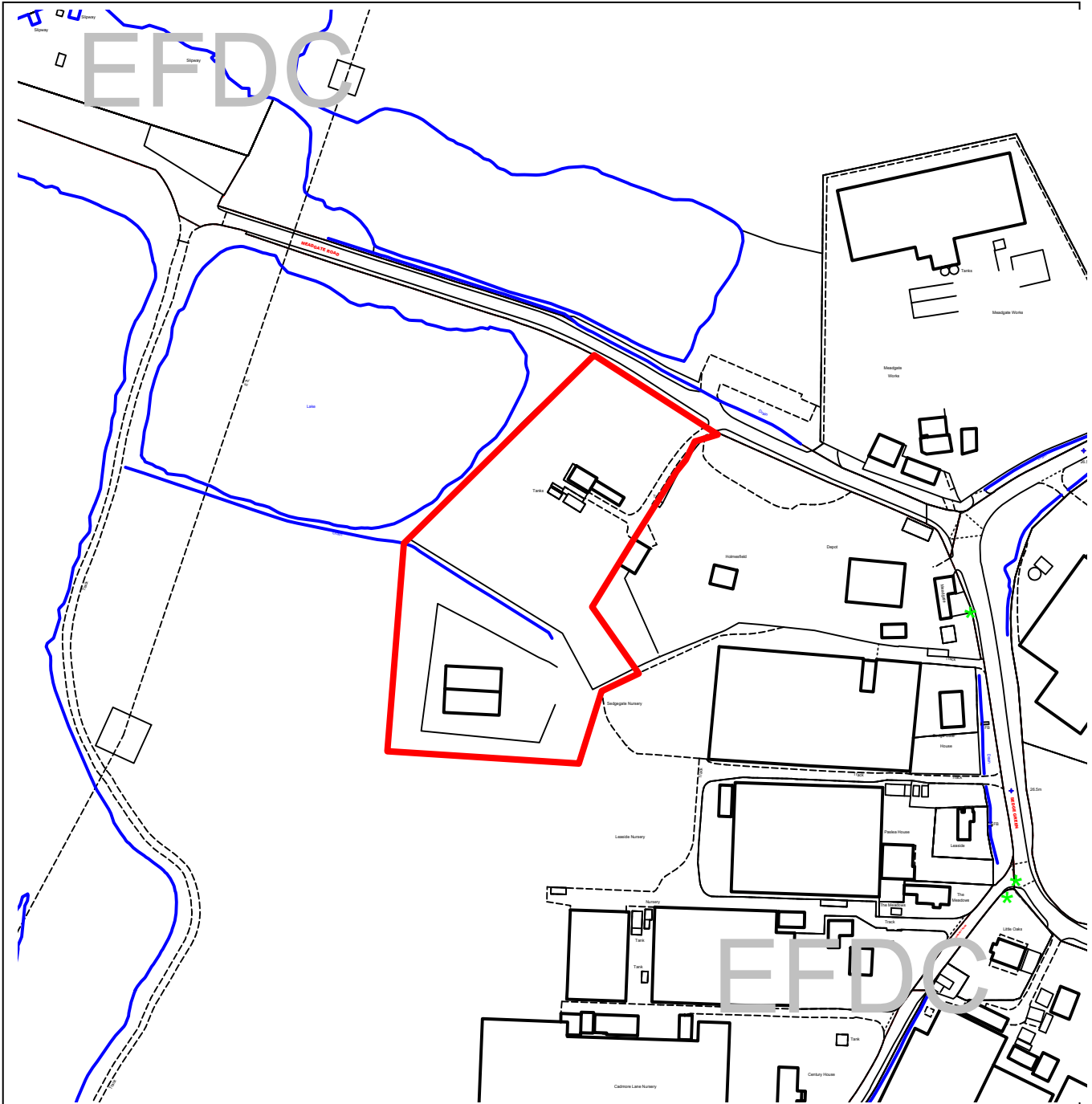
Some additional very special circumstances have been put forward to overcome the Council’s, Planning Inspector’s and Secretary of State’s previous concerns. The most significant of these are the removal of the existing redundant farm buildings and the additional landscaping (which is not felt to be required), which would have some benefit on the visual appearance of the site. Furthermore, whilst a permanent site has been identified as being harmful to the appearance and recreational use of the LVRP, there are no specific plans for this particular site, which was previously used as a horticultural nursery. Furthermore, the failure to grant permanent consent for this site would simply transfer the problems from this site, which exists and causes no problems to surrounding occupiers, to additional sites elsewhere in the District after the expiration of the temporary consent.

Due to the above, on balance, it is considered that the removal of the existing redundant buildings and individual circumstances surrounding this site are sufficient to warrant the grant of permanent consent on this site. As such this application is recommended for approval, subject to the conditions suggested above.



# Epping Forest District Council

## Area Planning Sub-Committee West



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<b>Agenda Item Number:</b>	1
Application Number:	EPF/0849/10
Site Name:	Holmsfield Nursery, Meadgate Road Nazeing,
Scale of Plot:	1/2500

**Report Item No: 2**

<b>APPLICATION No:</b>	EPF/1452/10
<b>SITE ADDRESS:</b>	Greenacres Tatsfield Avenue Nazeing Essex EN9 2HH
<b>PARISH:</b>	Nazeing
<b>WARD:</b>	Lower Nazeing
<b>APPLICANT:</b>	Mr Raymond Dawney
<b>DESCRIPTION OF PROPOSAL:</b>	Removal of S106 obligation to allow 'granny annexe' to be used as separate independent dwelling.
<b>RECOMMENDED DECISION:</b>	Refuse Permission

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

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=519863](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=519863)

**REASON FOR REFUSAL**

- 1 The application site is within the Green Belt where the creation of a new dwelling is unacceptable in principle and the applicant has failed to demonstrate very special circumstances contrary to policy GB2A of the Adopted Local Plan and Alterations and PPG2.

*This application is before this Committee since it has been 'called in' by Councillor Bassett (Pursuant to Section CL56, Schedule A (h) of the Council's Delegated Functions).*

**Description of Proposal:**

The applicant seeks permission to remove a S106 agreement tying the occupancy of the existing annex to the main dwelling known as Greenacres.

This S106 legal agreement was entered into as part of application EPF/1795/98 and there were no other obligations in the agreement.

**Description of Site:**

The application site is a single storey detached outbuilding converted to 2 bed annexe accommodation with an integral garage.

The existing annexe is situated to the side and south of the property known as Greenacres and accessed via a right of way across the front of Greenacres.

Greenacres has a significant area of land associated with the plot and there would be a significant parcel to the east of the annex available as amenity area.

The site is positioned at the end of a cul-de-sac backing onto open space looking towards Larksmead Nursery and the site is within the Green Belt.

### **Relevant History:**

EPF/1375/76 – Outline app for 3 houses – Refused  
EPF/0313/77 – Outline app for detached bungalow and integral garage – Refused  
EPF/1676/78 – Outline app for detached dwelling house – Refused  
EPF/0079/84 – Demolition of existing bungalow and outbuildings and erection of 2 semi-detached and three detached houses with integral garages – Refused  
EPF/0070/85 – Four detached houses and garages – Approved  
EPF/1725/87 – Three detached dwellings – Approved  
EPF/1057/88 – Outline app for 4 detached houses  
EPF/0969/90 – Dwelling house (revised details for plot 4) – Approved  
EPF/1436/90 – Erection of house and garage (revised details) – Approved  
EPF/0431/92 – Outline app for four 4-bed houses with garages – Approved  
EPF/0282/93 – Erection of detached house and garage – Refused  
EPF/0556/95 – Revised details of detached dwelling – Approved  
EPF/1795/98 – Change of use of building to granny annexe – Approved with S106

### **Policies Applied:**

#### Epping Forest District Local Plan and Alterations

CP2 – Protecting the Quality of the Rural and Built Environment  
GB2A – Development in the Green Belt  
DBE9 – Impact of New Development  
DBE10 – Design of Residential Extensions

### **SUMMARY OF REPRESENTATIONS:**

12 Neighbouring properties were notified and a single response has been received as follows:

SHIELING, TATSFIELD AVENUE – Object due to loss of privacy and amenity arising from the independent occupation of the unit and associated intensification of use. Object to additional traffic and noise generated and the loss of outlook were the plot to be further developed at a later date. Also note the piecemeal development of the site with 4 properties being erected to the west.

NAZEING PARISH COUNCIL: No objection

### **Issues and Considerations:**

The main issues that arise with this application are considered to be the appropriateness of the development in the Green Belt, its effect on the openness and character, impact to the street scene and its impact upon neighbouring properties.

#### Green Belt

Limited extensions to existing residential properties are considered acceptable under policy GB2A and outbuildings of a large scale are frequently acceptable without consent, however, the provision of a new dwelling in the Green Belt is contrary to policy unless very special circumstance is demonstrated.

The applicant has put forward details regarding personal circumstances, namely issues relating to poor health result in difficulties negotiating stairs, the financial circumstance of now adult children and outstanding financial commitments. Officers are of the view that whilst unfortunate, the personal circumstances of the applicant are insufficient to represent very special circumstance to

justify the creation of a new dwelling in the green belt, albeit created from an existing structure with ancillary residential use. The circumstances put forward by the applicant could be catered for in one of many single storey units of accommodation in the local area without the need to allow further residential occupation in the Green Belt and the circumstances put forward are not considered to be very special in that the circumstances are akin to that of many residents within the District.

Officers note that the original decision required the S106 agreement to prevent independent occupation which is now sought and that should Members wish to approve this application then it should be referred to DDCC for decision as it is contrary to policy.

#### *Design and appearance*

The proposals would remain unchanged from external appearance that presently exist and as a result have no greater impact on either the street scene or open character and appearance of the Green Belt than the present annexe.

#### *Neighbouring Properties*

Neighbouring properties would not be impacted to any greater extent in terms of actual overlooking from the independent occupation of the building as opposed to the occupation in association with Greenacres. However there is a perception of increased overlooking, but this is not considered to significantly detract from neighbouring amenity.

#### **Conclusion:**

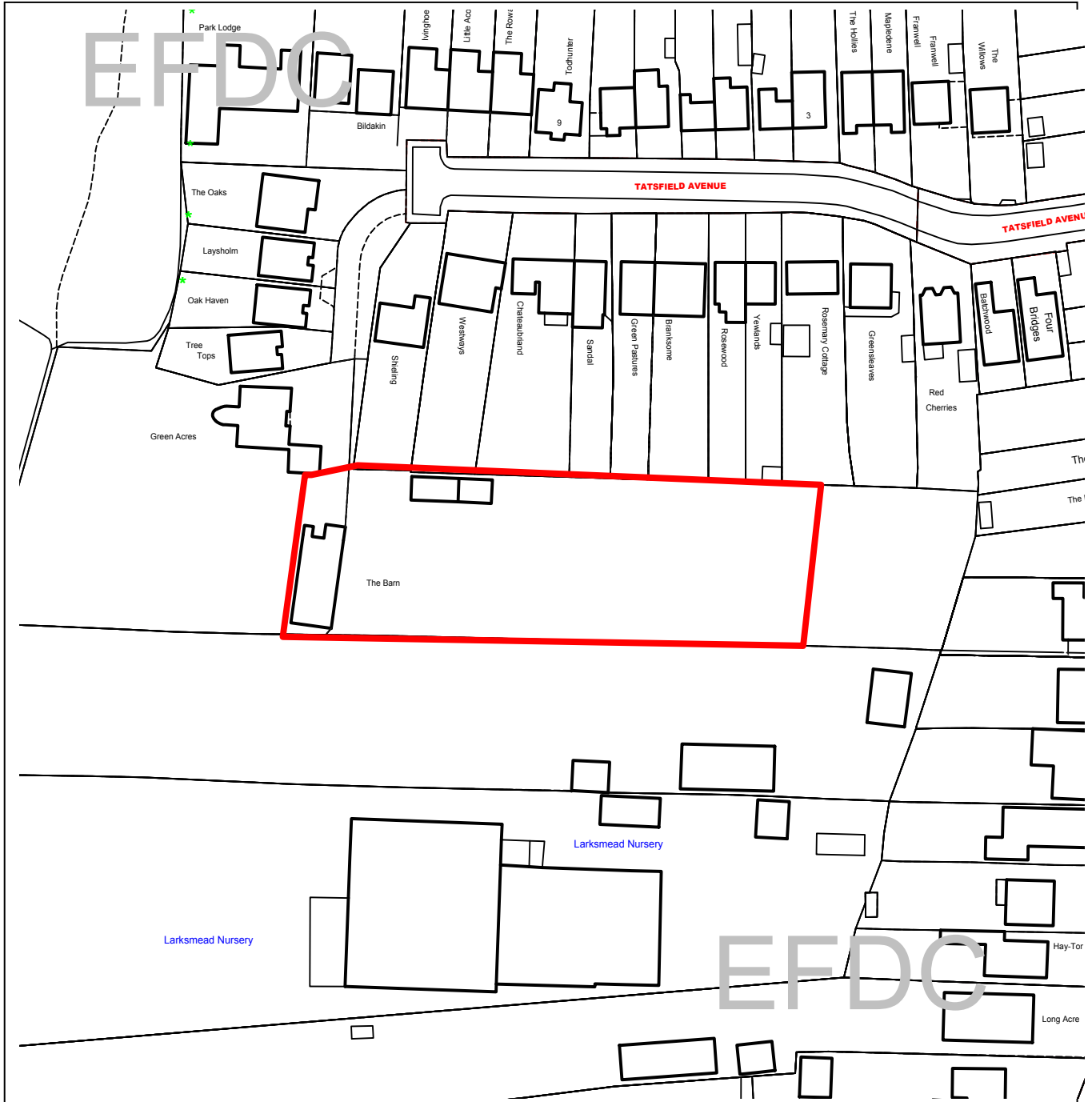
After consideration of the matters above, Officers recommend refusal as the creation of a new dwelling in the Green Belt is unacceptable, the S106 was implemented to prevent independent occupation, the circumstances set out by the applicant are not considered sufficient to provide very special circumstances and policy context has not altered with regard to new dwellings in the Green Belt.

Should Members wish to approve the removal of the S106 agreement then it is recommended this decision be referred to DDCC as it is contrary to policy.



# Epping Forest District Council

## Area Planning Sub-Committee West



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<b>Agenda Item Number:</b>	2
<b>Application Number:</b>	EPF/1452/10
<b>Site Name:</b>	Greenacres, Tatsfield Avenue Nazeing, EN9 2HH
<b>Scale of Plot:</b>	1/1250

**Report Item No: 3**

<b>APPLICATION No:</b>	EPF/1555/10
<b>SITE ADDRESS:</b>	1 Cartersfield Road Waltham Abbey Essex EN9
<b>PARISH:</b>	Waltham Abbey
<b>WARD:</b>	Waltham Abbey South West
<b>APPLICANT:</b>	Mr James Ahearne
<b>DESCRIPTION OF PROPOSAL:</b>	Variation of condition 7 'Delivery times' on EPF/1305/08, to allow deliveries to be made between 7 am - 21:00 pm Monday to Saturdays and from 9 am to 18:00 pm on Sundays and Bank Holidays. (Demolition of existing buildings and erection of new 'Lidl' foodstore and construction of five start-up industrial units. - Revised application)
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

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

[http://planpub.eppingforestdc.gov.uk/AniteLM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=520176](http://planpub.eppingforestdc.gov.uk/AniteLM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=520176)

**CONDITIONS**

- 1 No deliveries shall be taken at or despatched from the site outside the hours of 07:00 to 21:00 on Monday to Saturday and 09:00 and 18:00 on Sundays and Public/Bank Holidays.
- 2 Within 28 days from the date of this decision notice the 3m high acoustic fence shown on Plan Ref: 2024 01 A shall be erected, unless otherwise agreed in writing by the Local Planning Authority. Thereafter the fence shall be retained and maintained in good order.
- 3 Delivery vehicle engines shall be switched off whilst deliveries are taking place to or despatched from the site and shall only be switched on when entering or leaving the delivery area.

*This application is before this Committee since the recommendation differs from the views of the local council (Pursuant to Section CL56, Schedule A (g) of the Council's Delegated Functions) and since it is an application for a non 'other' development and the recommendation differs from more than two expression's of objection (Pursuant to Section CL56, Schedule A (f) of the Council's Delegated Functions).*



### **Description of Proposal:**

Revised application for a variation of condition 7 of planning permission EPF/1305/08 to allow for deliveries to be made between 07:00 and 21:00 Monday to Saturdays and between 09:00 and 18:00 on Sundays and Public/Bank Holidays.

Planning permission EPF/1305/08 was for “*demolition of existing buildings and erection of new 'Lidl' foodstore and construction of five start-up industrial units (revised application)*”. Condition 7 of this approval states:

*No deliveries shall be taken at or despatched from the site outside the hours of 07:30 to 18:30 on Monday to Saturday, 08:00 to 13:00 on Saturday, and not at any time on Sundays and public holidays.*

*Reason:- In order to protect the amenity of the area.*

### **Description of Site:**

The application site was a vacant plot which previously contained a large disused warehouse building and associated yard. The site now contains a newly opened 'Lidl' foodstore and has permission for five industrial units currently under construction. To the north of the site are Waltham Abbey fire station and dwellings and garage areas serving Harveyfields. To the west of the site is the Brooker Road industrial site. To the south of the site is a Nissan car showroom and industrial sites. The site is located some 25m south of the town centre boundary.

### **Relevant History:**

There is a long history to the application site, however the most relevant applications are as follows:

EPF/1269/97 - Change of use from B1 light industrial to hire and repair of light goods vehicles, sale of commercial vehicles and parts, erection of portakabin and ancillary offices and store – approved/conditions 03/02/98

EPF/1856/03 - Demolition of part of existing building and erection of building for motor dealership, to include showroom, offices, workshops and M.O.T. – approved/conditions 26/05/04

EPF/1305/08 - Demolition of existing buildings and erection of new 'Lidl' foodstore and construction of five start-up industrial units (revised application) – approved/conditions subject to a S106 18/09/09

EPF/2478/09 - Variation of condition 7 'Delivery times' on EPF/1305/08, to allow deliveries to be made between 7 am - 11 pm Monday to Saturdays and from 9 am to 5 pm on Sundays and Bank Holidays – refused 15/03/10 (appeal dismissed 06/09/10)

EPF/0716/10 - Variation of condition 3 on EPF/1305/08 to remove restriction on newspapers, magazines and greeting cards being sold or advertised – refused 10/06/10 (appeal lodged)

### **Policies Applied:**

RP5A – Adverse environmental impacts

DBE2 – Effect on neighbouring properties

DBE9 – Loss of amenity

### **Summary of Representations:**

29 neighbouring properties were consulted and a Site Notice was displayed on 24/08/10.

TOWN COUNCIL – Object due to increased nuisance to residents of Nobel Villas, contravention of conditions of planning permission in the first instance.

11A HARVEYFIELDS – Object due to increased noise nuisance.

3 NOBEL VILLAS – Object to increased noise and disturbance.

5 NOBEL VILLAS – Object to increased noise and disturbance.

### **Issues and Considerations:**

The main consideration in relation to this application is with regards to the impact on neighbouring residents.

The previous application proposed delivery times of between 7am and 11pm Monday to Saturday and 9am to 5pm Sundays and Bank Holidays. This was refused planning permission on the following grounds:

*The proposed extension of delivery times would result in a detrimental loss of amenity to neighbouring residents due to an unacceptable level of noise nuisance, contrary to policies RP5A, DBE2 and DBE9 of the adopted Local Plan and Alterations.*

The decision was subsequently dismissed on appeal as the Planning Inspector concluded that “noise from vehicles, particularly vehicle reversing alarms, and delivery activities, would be likely to be heard at those (surrounding) properties”.

The delivery times imposed by condition 7 of EPF/1305/08 were suggested by Environmental Health Officers and are based on the likelihood of disturbing nearby residential occupiers. The main reasoning for this is that the delivery bay for the Lidl store has direct line of sight to residential properties in Harvey Fields and is laid out so that delivery vehicles have to reverse up to the delivery bay. As the majority of delivery lorries have reversing alarms these lorries would generally be audible from neighbouring premises, particularly outside of peak times of use of the adjacent industrial estate. Furthermore the unloading of deliveries and noise from lorry engines would likely cause a nuisance to neighbouring residents. Complaints have been received by the Council from neighbouring residents with regards to noise and working hours, which proves the potential impact on neighbouring occupiers.

Despite the dismissal of the planning appeal the Inspector stated that “in the absence of adequate noise mitigation measures, which do not form part of the (previous) application the subject of this appeal, the extension to delivery and despatch times beyond those set out in condition 7... would be likely to adversely affect the living conditions of the occupiers of nearby residential properties because of noise and disturbance”.

As a result of this appeal decision, the applicant has discussed possible noise mitigation measures with Environmental Health and have resubmitted this revised application. This alters the hours to match those imposed on the existing Tesco store and proposes a 3m high acoustic fence to be erected around the delivery compound and that delivery lorries will be turned off during loading/unloading (which can be controlled by condition). Due to these alterations, Environmental Health does not have any objection to the proposed alterations to delivery times, as they consider that these will not detrimentally impact on neighbouring residents.

The Town Council have objected to this proposal due to the impact on the residents of Nobel Villas, which are located to the front of the store furthest from the delivery bay. As these dwellings are over 140m from the delivery bay it is not felt that the residents would suffer from noise nuisance caused by loading and unloading. Whilst the increased delivery times would lead to

delivery lorries accessing the site at extended times, and the only vehicle access to the site is opposite Nobel Villas, given that this access road (Cartersfield Road) serves Brooker Road industrial estate, the increase in lorry movements would not be considered unacceptable. It should also be noted that the Town Council raised no objection to the previous application, which proposed longer delivery hours than this scheme.

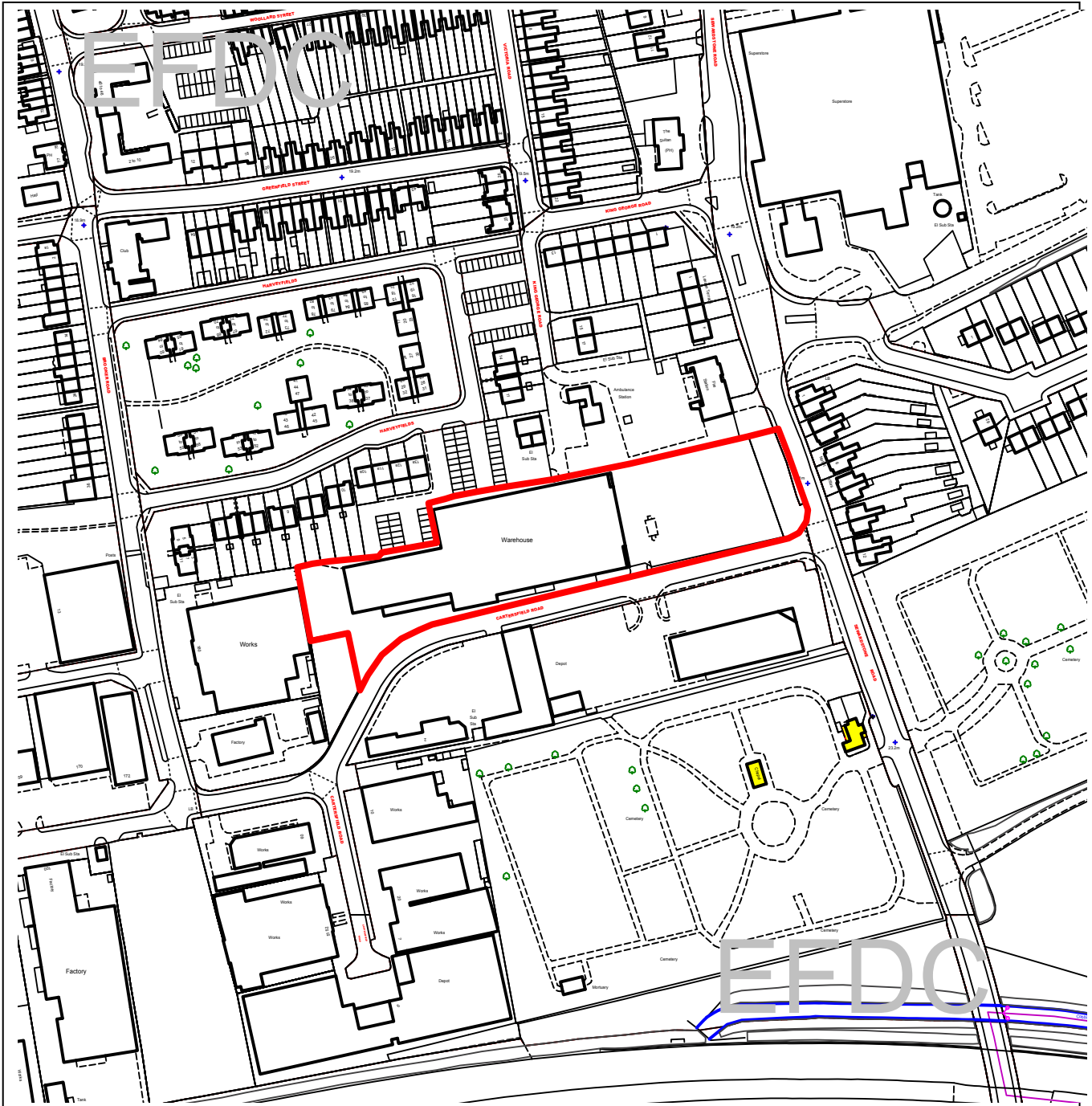
**Conclusion:**

The revised delivery hours proposed would match those imposed on the Tesco store and, subject to the installation of the acoustic fence and condition requiring delivery lorries to be turned off when loading/unloading, the extended delivery hours would not be unduly detrimental to neighbouring amenities.



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<b>Agenda Item Number:</b>	<b>3</b>
Application Number:	EPF/1555/10
Site Name:	1 Cartersfield Road, Waltham Abbey, EN9
Scale of Plot:	1/2500