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**APPLICATION No:** EPF/1248/05

Report Item No: 1

**SITE ADDRESS:**

TRANSPORT YARD REAR OF SHINGLES, NAZEING ROAD, NAZEING

**PARISH:** Nazeing

**APPLICANT:** S Milner

**DESCRIPTION OF PROPOSAL:**

Erection of enlarged workshop and transport office.

**RECOMMENDED DECISION: Grant Permission**

1. To be commenced within 3 years.
2. Materials of construction to be agreed.
3. Drainage details to be agreed.
4. Submission of a landscape scheme.
5. Submission of flood risk assessment
6. No construction or demolition works on the development hereby permitted shall take place other than between the hours of 07.30 and 18.00 on Mondays to Fridays or between 08.00 and 13.00 on Saturdays with no construction work at all on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
7. No bonfires shall be lit during construction or demolition operations.
8. The development shall be carried out in accordance with the amended plans received on 10 October 2005 unless otherwise agreed in writing with the Local Planning Authority.

**Description of Proposal:**

The application is for the rebuilding of a single storey workshop at the rear of the site, to the same width but extending 1.3m further towards the rear site boundary (revised from 2.3m). The new building, of rendered and painted blockwork, is to be divided into workshop, office and staff rest room/toilet areas, with small windows to front and rear and a new hedge screening it from open Green Belt land beyond.

**Description of Site:**

The yard lies at the rear of 'Shingles', a detached house in a

long line of dwellings on the south side of Nazeing Road, outside the main Lower Nazeing settlement but excluded from the Green Belt. Most of the yard lies in this area but the portion of the site beyond a second workshop (to be retained) is within the Green Belt. The site has a long history of transport and haulage use stretching back to 1937, and a Lawful Development Certificate was granted in 1994 for its use as a transport yard and workshops. Apart from these two workshops, the site is hard surfaced and used for vehicle parking and manoeuvring, with a small area used for the casting of large concrete blocks (taken to development sites as part of the process of relocating endangered and other species). There are no trees or hedges around the site of the rebuilding.

#### Relevant History:

EPO/676/70 - Details of replacement workshop - Approved  
EPF/456/87 - Extension to workshop - Approved  
CLD/EPF/21/94 - Certificate of Lawful Use as a transport yard and workshop.

#### Relevant Policies:

Structure Plan Policies:  
CS4 Sustainable new development.  
C2 Green Belt.

#### Local Plan Policies:

GB2 General restraint in the Green Belt.  
GB10 Lea Valley Regional Park  
DBE1 Design of new buildings  
DBE2 Impact of new buildings on neighbouring property  
DBE4 Buildings in the Green Belt  
DBE6 Car parking  
LL11 Landscaping of developments  
T17 Traffic implications of developments

#### Issues and Considerations:

The main issues in this case are the application of Green Belt policy, acceptability in the Lee Valley Regional Park, traffic and parking, design and amenity and landscape.

The site has a long history of transport depot and related workshop use, as shown by the Lawful Development Certificate granted in 1994. The haulage firm finally vacated seven years ago and the present owner moved in, and there is no record of noise complaints from neighbours.

The present application relates to a building of around 91 square metres in poor structural condition, and would also enable removal of a temporary haulage container to the rear,

used for secure storage following theft of machinery and other items. The new building would be 101 sq m, an increase of about 10%. The development is inappropriate in the Green Belt but the increase involved compared with the existing ageing small workshop is around 10%, well below the rule of thumb, for example, for extensions to dwellings in the Green Belt. Given also the poor condition of the present building and the metal container between it and the rear boundary with open countryside, the additional intrusion into the openness of the Green Belt would be minimal and is considered acceptable.

Similarly, the impact on the overall amenity, landscape and recreational value of the Lee Valley Park is not significant, confirmed by the Park Authority's response with no objections. The site lies in the extensive area of flood risk, covering much of Lower Nazeing settlement. Submission of a flood risk assessment is recommended, to ensure that proper consideration is given to the issue.

Little traffic is generated by the existing use; there are infrequent deliveries (average every other month) of cement and ready mix concrete, and daily movements involving deliveries to sites of the cast concrete structures, with other occasional small delivery runs. The firm has 5 small and medium-sized vans, and there are four employees, generating one return journey each a day. The small net increase in floorspace of the replacement building confirms the applicant's intention that no increase in activity will result, and therefore no additional traffic generated. As a lawful transport depot use, established for many years, the proposal is thus acceptable on traffic grounds. There is ample space for parking, and enough room to turn larger goods vehicles by means of moving company vans when larger deliveries are expected.

The new building is of inoffensive design, and will be screened by a new hedgerow of indigenous species (details to be agreed by condition). Its distance from the nearest neighbouring house would be at least 60m, beyond and partly screened by the other long-established workshop. A condition is proposed requiring no external storage or industrial activity in the vicinity of the new building, and on this basis no detriment to amenity is envisaged.

Although the site is identified as contaminated, the rebuilding of the rear workshop does not involve any change of use and so the appropriate response is to request that work is undertaken in a way that minimises risks to building. Conditions are also recommended to cover hours of operation for construction of the building and submission of drainage details.

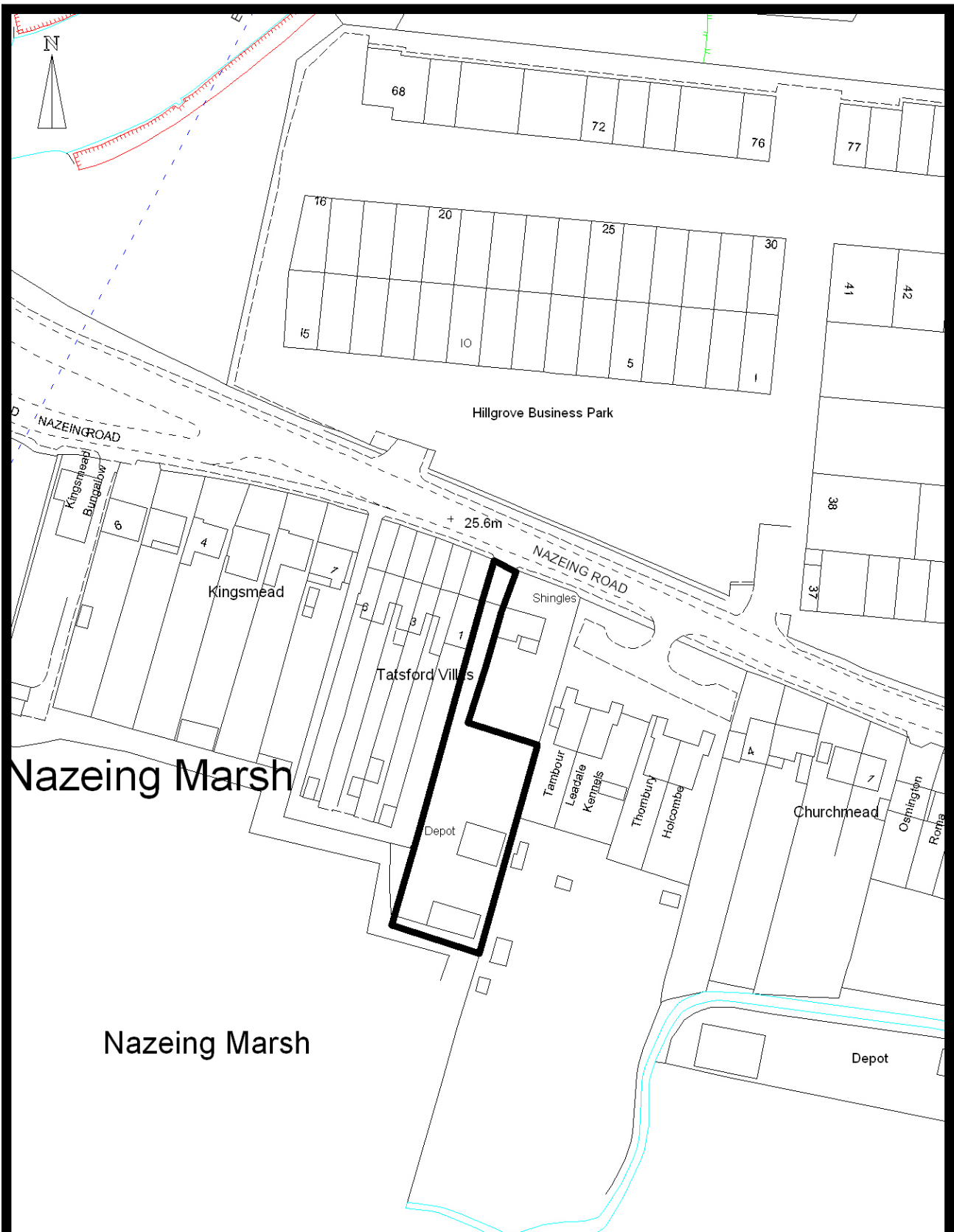
## Conclusions

The scheme is now considered acceptable, subject to the various conditions to ensure that the environmental issues and landscaping are satisfactory within the context of the lawful use.

**SUMMARY OF REPRESENTATIONS:**

NAZEING PARISH COUNCIL - Object on grounds of commercial use outside defined employment area, with adverse effects on amenity of area; vehicles using depot larger than when business first granted permission, and create obstruction on highway when entering or leaving site.

LEE VALLEY REGIONAL PARK - No observations.



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Item No: 01  
Scale: 1:1250



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**APPLICATION No:** EPF/1340/05

Report Item No: 2

**SITE ADDRESS:**  
HOLMSFIELD NURSERY, MEADGATE ROAD, ROYDON

**PARISH:** Nazeing

**APPLICANT:** Mr J Connors

**DESCRIPTION OF PROPOSAL:**  
Change of use of the land to a private gypsy site.

**RECOMMENDED DECISION: Refuse**

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 H3 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 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 and the countryside. The proposal therefore conflicts with policy H11.

#### Description of Proposal:

It is proposed to use the land as a caravan site to provide 8 pitches for the accommodation of named Irish travellers, therefore a personal planning permission is sought. The people named in the application as those who would live at the site as proposed are currently living on the land. The application is therefore retrospective, although the area defined on the site plan includes the adjoining vacant site fronting Meadgate Road as well the pitches currently laid out to the rear of the site.

The application proposes that the site be laid out as 8 pitches, accessed from Meadgate Road and across the vacant area (with an empty bungalow and outbuildings). The pitches have been created by 2m high timber panel fencing, and 6 of the pitches are around the west and south perimeter of the site, with the remaining two in a central position, leaving an open area between.

Access would be as existing off Meadgate Road. The application indicates surface water draining to a soak away and foul drainage via a septic tank.

#### Description of Site:

The application site is an irregular, roughly rectangular area of land situated north of Lower Nazeing, with an access to Meadgate Road about 120m west of Sedge Green. The site is

bordered by nurseries and a depot fronting Sedge Green to the east, and open marsh and field land to the south and west, part of the recreational fishing areas in this part of the Lee Valley Park. Dense planting screens most of the site from immediate view by the nearest lake. The site has two parts: the vacant land with disused bungalow fronting Meadgate Road, and an area now cleared and levelled with topsoil, where 8 plots with a caravan each have been marked out with panel fencing.

Commercial nurseries and some dwellings front Sedge Green from the Meadgate Road junction southwards towards the approach to Lower Nazeing, but to the west and north is open countryside. The site is situated in the Metropolitan Green Belt.

#### Relevant History:

The last lawful use of the site is for a nursery (horticulture), with parts of two separate holdings merged in the late 1990's. The northern area had glasshouses on about 40% of its area, but all have since been demolished. After a period of trading by a garden centre that use ceased in 1997. The southern area had various unlawful uses including timber distribution, and a three-section portal frame building was reduced in size following an enforcement notice, on the basis of agricultural use, which has not subsequently materialised. A further notice against rebuilding following fire damage was upheld on appeal.

#### Recent recorded history is:

EPF/1649/89 - Change of use of storage/packing building to B1 business - Refused 3.1.90  
EPF/818/90 - Change of use of land & buildings to storage & distribution - Refused 28.12.90  
EPF/441/91 - Stationing of mobile home for agricultural/ horticultural purposes for temporary period of 3 years - Refused 1.9.92 & Appeal Dismissed  
EPF/716/93 - Erection of packing shed - Refused 14.2.94 & Appeal Dismissed  
EPF/1172/96 - Erection of B1 industrial units & ancillary works - Refused & Appeal Dismissed  
EPF/Enforcement notice issued in respect of mobile home & storage of fuel tanks - Appeal Dismissed 27.1.00  
EPF/1775/00 Erection of temporary steel framed warehouse - Refused 2.3.01  
EPF/2093/00 - Erection of 0.66ha of glasshouses - Refused 3.7.01 & Appeal Dismissed 5.12.01.

#### Policies Applied:

##### Structure Plan:

CS2 - Protecting the natural and built environment  
CS4 - Sustainable new development



C2 - Development within the Metropolitan Green Belt  
NR1 - Landscape Conservation  
NR12 - Protecting Water Resources  
BE6 - Polluting, Hazardous or Noisy Development  
H6 - Accommodation for Gypsies  
T1 - Sustainable Transport Strategy  
T3 - Promoting accessibility

Local Plan:

GB2 - Development in the Green Belt  
RP3 - Protection of surface water and groundwater  
RP4 - Development on potentially contaminated land  
H11 - Applications for gypsy caravan sites in the Green Belt -  
criteria  
U2 - Development in areas at risk from flooding  
LL2 - protection of the rural landscape  
LL11 - Landscaping schemes  
T17 - Highways: Criteria for assessing proposals

Relevant National Planning Policy Guidance:

PPS1 - Delivering Sustainable Development  
PPG2 - Green Belts  
PPG3 - Housing  
PPS7 - Sustainable Development In Rural Areas  
PPG25 - Development and Flood Risk  
Department of the Environment Circular No. 1/94 Gypsy Sites and  
Planning

Issues and Considerations:

Since the site is in the Green Belt the proposal would be inappropriate development that by definition is harmful to the Green Belt. The applicant therefore has to prove there are very special circumstances that overcome the harm caused by inappropriateness. The most important characteristic of the Green Belt is its openness and the condition of the land is not a material consideration in its continued protection. Key planning issues in this case are therefore what level of harm is caused to the Green Belt and whether any very special circumstances that outweigh the harm caused exist. The other major issues include:

- 1) Impact on the landscape and recreational value of this part of the Lee Valley Regional Park;
- 2) Whether the development would result in an increased risk of flooding and pollution to the site, the occupants and/or adjoining land;
- 3) Effects on highway safety;
- 4) Whether the proposal would provide satisfactory living conditions for the occupants; and
- 5) Whether the development would meet sustainable development objectives.

It is also necessary to consider the applicants' gypsy status and assess the human rights implications of a decision to refuse planning permission because it would naturally be followed by enforcement action. It is necessary to consider the issue of gypsy status first of all since this has a bearing on the approach to the other issues.

## GYPSY STATUS

For the purposes of planning law section 24(8) of the Caravan Sites and Control of Development Act 1960 as amended by section 16 of the Caravan Sites Act 1968 defines "Gypsies" as "persons of nomadic habit of life, whatever their race or origin".

Gypsy status is therefore not concerned with a person's origins or ethnicity but is dependent on a person following a nomadic habit of life.

The leading case giving guidance in how to approach the question of the gypsy status of applicants for planning permission is currently the Court of Appeal decision in *Wrexham County Borough Council v National Assembly for Wales and Mr and Mrs Berry*. This established that the main matter in determining gypsy status is whether a person is actually living a travelling life (whether seasonal or periodic) at the time the application is made. If they are not it is then necessary to consider the following matters:

- 1) Do the applicants come from traditional Gypsy background and have followed a nomadic way of life in the past?
- 2) Do the applicants have an honest and realistically realisable intention of resuming travelling?
- 3) What is the reason for the interruption of their nomadic way of life and what is the likely duration of such an interruption?

Information submitted with the application together with further information submitted by the applicants and their agent indicates that all those who would live on the site come from families who followed a nomadic lifestyle and that they themselves have followed a nomadic lifestyle. Responses to a questionnaire completed in respect of the 8 families (total 39 people) stated in the application to be living on the land indicate that they generally wanted to live at the site as long as they were allowed to do so. All of the families state that they moved there on 5th August 2005, having arrived from the site at 'Neverest', Hamlet Hill. Each of the respondents said they had made enquiries about alternative sites or applied to reside on a Council owned site, but that none were available. A majority of the families have members stated to be receiving local hospital or GP treatment and have children at local schools, mainly in Hoddesdon. One of the occupiers has the support of Essex Social Care who have written to the effect that the family group should be allowed to stay together. The most common reasons why they wished to remain

there was because they perceived they had nowhere else to go and in order to secure an education for their children.

Minimal information on employment has been given but most families indicate self-employed labouring as the adult occupation. No information is supplied on work location. It is therefore not clear whether the occupants of the land travel to find work, but it would appear that they do not follow a nomadic lifestyle in order to seek work to any greater extent than the settled population.

There is no evidence to dispute the stated background of those living on the land and they all claim gypsy status. Although the families only temporarily occupied 'Neverest' and recently move to this site, their stated intentions appear to suggest that they are willing to cease their nomadic habit of life if they can secure a permanent site, most preferring to stop travelling in order to secure health facilities and/ or the education of their children. In the event of staying on the site, the gypsy status the applicants may have had would then be in doubt and this reduces the consideration that can be given to that status in determining this application.

It should be noted, however, that the proposed replacement for Circular 1/94 proposes the definition of gypsies and travellers for planning purposes be amended to state:

"a person or persons who have a traditional cultural preference for living in caravans and who either pursue a nomadic habit of life or have pursued such a habit but have ceased travelling, whether permanently or temporarily, because of the education needs of their dependant children, or ill-health, old age, or caring responsibilities (whether of themselves, their dependants living with them, or the widows and widowers of such dependants), but does not include members of an organised group of travelling show people or circus people, travelling together as such"

The replacement Circular is expected to be adopted in October 2005 and it is expected that the definition of gypsies and travellers proposed will be included in it. Since it would effectively remove the test of actually following a nomadic habit of life, under that definition the applicants could arguably be afforded gypsy status. However, that would result in a conflict between the new Circular and the 1960 Act. Therefore, even if that definition of gypsies and travellers was included in a replacement Circular, unless the legal definition set out in the 1960 Act were also changed the legal definition of gypsies would remain unchanged and there appear to be no proposals to amend the 1960 Act. Accordingly, as the law and adopted planning policy currently stand, the gypsy status of the applicants is in doubt.

However, this conclusion is at odds with the Planning Inspector's conclusions in an appeal decision letter dated 13th

May 2004 relating to land at Epping Lane near Passingford Bridge. That decision letter stated only two of the sites occupants still followed a generally nomadic lifestyle but the remaining occupants either intended to travel but found circumstances made it hard to do so or found it expedient to remain settled to enable their children to receive an education. Significant weight was given to the fact that, at the time of the Inquiry most of the occupants of the site had lived there for less than a year and accordingly they were considered to have gypsy status. (Since the response to the questionnaire issued by the Council reveals the overwhelming majority of the respondents have lived on the site for 3 years they have clearly lived there for a significant period of time. Moreover, the response also indicates an overwhelming intention to remain on the site permanently. These facts were not available to the Planning Inspector when considering the issue of gypsy status and had they been he might have come to a different conclusion.)

## GREEN BELT AND VERY SPECIAL CIRCUMSTANCES

As stated above, the proposal is inappropriate development in the Green Belt. The previous horticultural use was confirmed by the appeal Inspector in 2001 as not being in conflict with Green Belt policy, although the extensive glasshouses proposed then were dismissed. That decision was based partly on the lack of a District-wide assessment at that time of the longer-term needs of local horticultural for new areas under glass (the Assessment since being completed), but also on the impact of new glasshouses on the character and appearance of the site, which the Inspector agreed '...occupied a very visually important and prominent open space that complements existing recreational facilities'. Despite the relatively small scale of the proposal compared to some travellers' sites, the current unauthorised use would involve the retention of all of the made ground, despite much of it not being required to provide pitches together with large areas of panel fencing within and around the site, clearly visible from the Brackens Pool fishing lake to the west. Together with the caravans and vehicles, the proposal would have an urbanising effect on the Green Belt and open countryside, in a location where visual impact is already evident from areas with public access. The proposal would be visually intrusive and continue to materially erode the openness of the Green Belt and would also continue to be harmful to the character and appearance of the area whatever landscaping was carried out to mitigate its impact. This impact would continue to be compounded by the normal everyday activities of the occupants living on the site. It is therefore concluded that the proposal would cause significant harm to the Green Belt and only serve to perpetuate the acknowledged harm caused by the existing use and undermine the purposes of including the land in the Green Belt.

It is therefore necessary to consider whether any very special

circumstances of sufficient weight to outweigh the harm caused by inappropriateness and other harm. The Caravan Sites Act 1968 places a duty on local authorities to make adequate provision for gypsies residing in or resorting to their areas. Gypsy status is therefore capable of being a very special circumstance but in this case, it is now in doubt whether the occupants of the site still have gypsy status because they are not clearly following a nomadic habit of life, have not done so in recent years at least, and seek to remain settled on the site. It is nevertheless necessary to consider the personal circumstances of the occupants of the land and any hardship that would be brought on them as a result of a decision to refuse planning permission.

Responses to the Council's questionnaire revealed 16 children, 13 of school age with all attending local schools or nurseries. Five of the respondent families state that at least one family member has some form of condition or disability receiving medical attention, ranging from asthma and arthritis to emphysema. Most of the families are registered with local surgeries in Hoddesdon, with members of 4 families attending hospital regularly, generally at Harlow. Some of the more elderly attend care centres.

Having regard to the information provided it does not appear that the needs of the occupants of the site are significantly different from those of the general population. If the occupants moved away from the site that could result in children currently in local schools and nurseries having to go to a different school or nursery (depending on location of the new site) and this would be disruptive to them. There is no reason, however, to conclude that the educational needs of the children could not be met at another school or nursery. Equally, those receiving medical treatment do not have any requirement to live on the site in order to continue to receive treatment. It is acknowledged that if the occupants of the site returned to a nomadic habit of life this would result in difficulties in accessing educational and health services. However, since the educational and health needs identified could be met elsewhere (if not at the present facilities), they are not considered to amount to a very special circumstance of sufficient weight to overcome the harm caused to the Green Belt.

The alternative would be to settle elsewhere and it is noted that all of the occupants state that attempts have been made to purchase or rent other sites, but that none were available. All of the families have applied to live on a Council-owned site.

It must be acknowledged that there are few lawful sites for travellers to settle and that makes it difficult for the occupants of the site to resume their previous nomadic habit of life. This has no doubt led to their desire to remain on this site permanently. Against this it must also be acknowledged

that the occupants of the site would have been aware from the enforcement notice that required them to cease their use of the Hamlet Hill site that planning permission would be likely to be required again. Since no applications or planning enquiries have been made for alternative sites, it has not yet been demonstrated that there are no acceptable sites in planning terms. Therefore there are not considered to be very special circumstances in relation to this site of sufficient weight to overcome the harm caused to the Green Belt.

## IMPACT ON LANDSCAPE AND RECREATIONAL VALUE OF LEE VALLEY REGIONAL PARK

As stated already, the appeal Inspector of 2001 supported the contention of the Council and Lee Valley Regional Park Authority that the Holmsfield Nursery site occupies an important position adjoining well-used recreational facilities, including three boating and fishing lakes and footpaths to the west. The site partly abuts a footpath around the perimeter of Brackens Pool, and the caravan plots adjoin the open field alongside two of the lakes. The site effectively acts as a 'buffer zone' between these areas and the developed nursery sites fronting Sedge Green and the entry to Meadgate Road, whereas the sites further south are at least 150m away from the nearest lake and public access, reducing their impact. The fencing and caravans visible above the fence line detract from the natural landscape setting of the recreational areas and the Lee Valley Park, and also reduce the isolated and rural feel of the area, which is an integral part of their attractiveness to users.

## FLOOD RISK

The proposals map of the Local Plan (based on Environment Agency records) indicates that the whole of the Holmsfield Nursery site lies in the area near to the River Lee that is at risk from flooding. The Environment Agency has raised objection to the proposal on the basis that no Flood Risk Assessment has been submitted.

In the absence of a formal Assessment, it can be stated that raising the level of a site (as partly achieved by the earth and rubble imported already) is not considered an acceptable means of avoiding flooding, as the risk is transferred elsewhere contrary to current principles of river catchment management. Since no information has been provided to assess the risk to this form of residential development by flooding and how the flood risk to adjacent land is affected by the development, it cannot be concluded that the development is acceptable in flood risk terms. Accordingly it would not be justifiable to grant planning permission for the proposed development.

## HIGHWAY SAFETY

The residential caravan use on the scale currently proposed would have limited traffic generation, and is reasonably well sited in relation to the main road network serving the Nazeing area. Vehicular access to the site is off Meadgate Road, an unmade rural road serving the Lignacite works and a limited number of other properties, but also giving access to the Lee Valley lakes and recreational areas in Nazeing Mead. Sight lines are poor, but could be improved by repositioning the entrance gate to give a right-angled access point and the sight line directly improved by replanting the hedge further into the site, benefiting highway safety. Conditions could be imposed to this effect.

## POLLUTION, DRAINAGE AND NOISE

The previous horticultural use as a nursery means that investigation of potential contamination should be carried out. Records indicate diesel spillage amongst other activities. In addition, the site lies adjacent to a number of landfill sites and landfill gas may also be present. Details of water supply and foul drainage are also needed, and the watercourse running along the southern perimeter should be cleared of obstructions. Each of these matters can be the subject of planning conditions. The proximity of the Lignacite works on the opposite side of Meadgate Road would be an issue if the whole site were to be used for residential caravans, calling for noise mitigation measures such as installation of a noise barrier. As submitted, the additional land is shown within the site.

## SUSTAINABILITY

The site is situated in a rural area, around 1.5km from the centre of Lower Nazeing and up to 4km from Hoddesdon (c. 2.5km on foot across Lee Valley footpaths). It is not immediately accessible to a full range of services, shops or schools by any other form of transport than a private car, though Lower Nazeing, with local facilities is just within walking distance. In the circumstances the proposal does not clearly conflict with the sustainability aims of adopted planning policy, and is not as remote as some rural gypsy and traveller sites.

## OTHER MATTERS

Structure Plan policy relating to accommodation for gypsies allows for criteria based policies for assessing planning applications for gypsy caravan sites where it has not been possible to identify specific sites for such usage in local plans. This is in accordance with Circular 1/94 and the guidance contained in the draft replacement circular. The supporting text for Local Plan Policy H11 states gypsy sites should:

- (a) be within reasonable distance of a settlement for access to schools, shops, etc;
- (b) not be in close proximity to residential properties;

- (c) have a minimum impact upon the appearance of the countryside;
- (d) have, or be capable of having, convenient and safe access to the main road network;
- (e) be capable of providing an acceptable living environment, and;
- (f) be in close proximity to an area frequented by gypsies.

Having regard to the above assessment of the proposal as detailed above it is considered that even if the applicants could be afforded gypsy status, the proposal would not meet all the requirements of adopted planning policy for assessing proposals for gypsy caravan sites, especially in relation to (a) distance to amenities and (c) impact on the countryside.

## HUMAN RIGHTS

The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law and is a relevant consideration. Officers have taken steps to find out the personal circumstances of the occupants of the site to ascertain the need for them to be at this particular site and therefore ascertain both whether a decision to refuse planning permission and taking action to secure compliance with the extant enforcement notice would be a proportionate interference in their Article 8 rights. The necessity for such interference has already been established in the Secretary of States decision to dismiss the appeal against the Notice following the public inquiry held in January and February 2004.

The educational and health needs of the occupants of the site are not such that they can only be met at the site. They could certainly be met at another site and it cannot be said that no alternative sites are available since the applicants have not taken reasonable steps to find one. In that respect there is no change since the appeal against the Notice was considered. In reaching his decision to extend the period for complying with the requirements of the Notice the Secretary of State had specific regard to the difficulty the occupants were likely to have in finding alternative sites. Accordingly, it is concluded that since the objections to the development are numerous and serious, interference with Article 8 rights by refusing planning permission and securing the cessation of the existing use is necessary to safeguard the public interest and would not be a disproportionate measure or unjustified interference in this particular case.

## Conclusion

The proposed development is inappropriate development that by definition is harmful to the Green Belt and insufficient very special circumstances of sufficient weight to override the harm caused by inappropriateness exist. The development would cause harm to the open character and appearance of the Green Belt, and prejudice the purposes of including the land in the Green



Belt. The development in a sensitive location in terms of the landscape setting of the Lee Valley Park and immediately alongside well-used open recreational amenities would conflict with Structure and Local Plan policies to protect the open landscape setting of the Lee Valley. The application has failed to establish the risk of flooding, both on and off site, and contamination on site. These shortcomings have to be balanced against the perceived need for gypsy sites locally (although a full needs assessment is currently being researched and has yet to report) but on its own this is not considered to outweigh the problems with this site.

Since the objections to the development are numerous and serious, interference with Article 8 rights by refusing planning permission and securing the cessation of the existing use is necessary to safeguard the public interest and would not be a disproportionate measure or unjustified interference in this particular case. The proposed development is therefore contrary to Structure Plan policies CS2, CS4, C2, NR1, NR12, BE6, and H6. It is also contrary to Local Plan policies GB2, RP3, RP5, H11, U2, and LL2. Accordingly, it is recommended that planning permission be refused.

#### **SUMMARY OF REPRESENTATIONS:**

NAZEING PARISH COUNCIL - Noted that this is a retrospective application and members have voiced concerns regarding unresolved enforcement procedures on this site. The site is within the Green Belt and is low lying; it is envisaged that a septic tank will be used, which will become an environmental hazard; members agreed to object to proposals.

#### **NEIGHBOURS:**

LEASIDE NURSERY, SEDGE GREEN - Objects as same issues arise as with the occupiers' last site in Hamlet Hill; nothing has materially changed & site only a mile away.

LEASIDE, SEDGE GREEN - Object due to concentration of gypsy encampments in Nazeing and Roydon; though the main sites at Paynes Lane and Hamlet Hill have been vacated, the Hamlet Hill families have moved to this site, trying to avoid controls.

The families are not nomadic; great disruption by excavators over several days when they moved onto the land.

SEDGEGATE NURSERY, SEDGE GREEN - Object due to the cavalier attitude shown to regulations.

MAYBROOK, ELDON ROAD - Object due to proximity to own house, added to existing disturbance from neighbours.

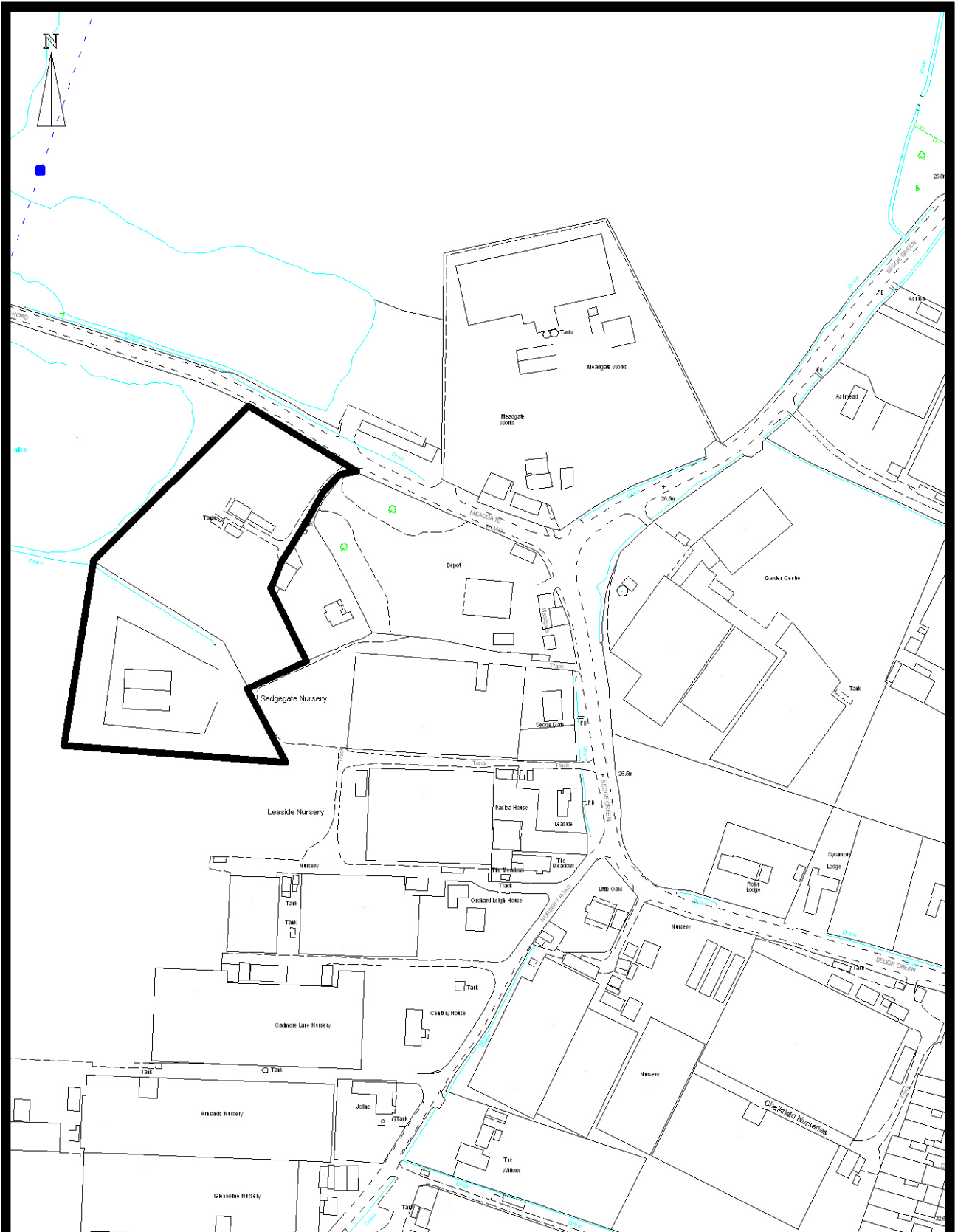
LEE VALLEY REGIONAL PARK AUTHORITY - Object to use on grounds of adverse effect on landscape and recreational value of this relatively narrow site, which should be retained as an undeveloped landscaped area to provide an appropriate backcloth to the Park.

NAZEING CONSERVATION SOCIETY - Although not in Nazeing conservation area the land is almost certainly in Green Belt.

Gypsy sites not in principle supported in Green Belt by Local

Plan policy H11, and the Council is reminded of the criteria relating to need for proven local connection; presumption against proximity to residential properties; established transport access; ability to sustain an acceptable living environment; and minimal impact on the character and appearance of the countryside. Only if there are circumstances justifying an exception should permission be granted.

CAMPAIGN TO PROTECT RURAL ESSEX - Object as nursery is in Green Belt and change of use to residential not permitted by PPG2 or Local Plan; if permission is given it will have a wide impact on Roydon & Nazeing due to precedent and large number of established glasshouses.



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**Item No: 02**  
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**APPLICATION No:** EPF/1203/05

Report Item No: 3

**SITE ADDRESS:**  
32 EDWARD COURT, WALTHAM ABBEY

**PARISH:** Waltham Abbey

**APPLICANT:** Mr L Wooden

**DESCRIPTION OF PROPOSAL:**

Revised outline application for the redevelopment of the site to provide 3 no. two storey terraced houses with associated parking and amenity space.(All Matters Reserved)

**RECOMMENDED DECISION: Grant Permission**

1. Submission of details within 3 years.
2. Submission of detailed drawings
3. Materials of construction to be agreed.
4. Submission of landscape details
5. Submission of flood risk assessment
6. Contaminated land study and remediation.
7. Concurrent with the submission of details of siting design and external appearance, and prior to the commencement of development, details of the existing ground and floor levels and proposed finished ground and floor levels together with proposed cross sections through the site and a street scene drawing indicating the relationship between the proposed dwellings and the existing dwellings either side, shall be submitted to and agreed by the Local Planning Authority. The development shall then be completed in accordance with the agreed details.
8. Prior to the submission of details of siting, design and external appearance a bat survey shall be carried out by a suitably qualified person, the result of which must be submitted concurrently with the details of siting, design and external appearance. Should evidence of bats be found at the site no work of clearance, or demolition shall be undertaken until such measures as have been agreed by the Local Planning Authority in consultation with English Nature to ensure the protection/relocation of any bats have been undertaken. Additionally, the proposed new properties shall incorporate features designed to encourage bat roosting to be agreed by the Local Planning Authority.
9. Prior to the commencement of the development, details of the proposed surface materials for the drives shall be submitted to and approved by the Local Planning Authority. The agreed surface treatment shall be completed prior to the first occupation of the development.

10. The gradient of any access to the site shall not exceed 1/10.
11. No gates shall be erected across any vehicular access to the site without the prior written consent of the Local Planning Authority.

Description of Proposal:

Outline application with all matters reserved, for the redevelopment of the site to provide a terrace of 3 x two storey houses with associated parking and amenity space.

Description of Site:

Detached dwelling located within plot of land approximately 25m square located on the eastern side of Edward Court within Ninefields, between other residential properties. The site slopes up steeply from the road and the road slopes up to the north west. The existing dwelling is a bungalow located centrally within the site and with a very short rear garden. There is a single access adjacent to the northwest boundary leading to a garage to the rear. There is tall leylandii hedging to the front and rear boundaries.

Relevant History:

Earlier this year there was an outline application for erection of 3 town houses on the plot, which was withdrawn.

Policies Applied:

Local Plan Policies:

H2 Development Sites  
DBE1 Design and layout  
DBE3 Development in urban areas  
DBE5 Design and layout  
DBE6 Car parking  
DBE8 Amenity Space  
DBE9 Amenity of neighbours  
LL11 Landscaping  
U2 and U3 Flooding.

Structure Plan Policies:

CS1 Sustainable urban regeneration  
CS4 Sustainable development  
BE1 Urban intensification  
H2 Sequential approach to housing development  
H4 Development form.

## Issues and Considerations:

This is an outline application with all matters (siting, design, external appearance and landscaping) reserved for future consideration.

The main concern at this stage is whether the site is capable of accommodating a terrace of three dwellings, without harm to the character of the area or the amenity of neighbours.

The site is comparable in size to the area of land immediately to the northwest on which there is a terrace of three properties and it is easy to envisage a very similar development on this site which would be in keeping with the street scene and provide adequate amenity space without harm to the amenities of neighbouring residents.

The main concern with regard to such development would be the finished levels of the site. As there is a significant change in levels between this site and the ones on either side, and there would be a need to cut into the site to ensure that the new development did not adversely affect no. 33 (to the south east) in particular. However, it is considered that these issues can be successfully addressed at the detailed design stage and a condition requiring the submission of existing and proposed levels and cross sections through the site is suggested. Subject to the detailed design of the scheme it is not accepted that there will be any significant overlooking or loss of privacy from the proposal. The relationship with properties to the rear (in Bramley West) will again be comparable to that which exists on the adjoining site. Indeed the houses that back on to the site have longer than average rear gardens. Care will be taken to ensure that there are no side facing windows that could overlook other neighbouring properties and of course neighbours will have an opportunity to comment on detailed plans when submitted.

At present the existing dwelling is anachronistic and out of place within an area of more recent and more densely developed housing, including flats on the opposite side of the road. The redevelopment of the site would be in line with Policy BE1 of the Structure Plan, which seeks to make the best use of urban land.

It is considered that there would be adequate space within the site for at least 1 parking space for each unit, which would be in line with the adopted maximum parking standards. There is no objection from highways to the scheme subject to conditions regarding details of access gradients, gates, surface materials and parking.

## Other concerns

Neighbours have raised concern about the loss of on-street

parking that would result from the development, this is not considered a grounds for refusal, particularly given the current adopted maximum parking standards which are intended to encourage people to use alternative means of transport.

Concern has been raised that there has been a lot of development in the area and local facilities may be unable to cope, this is however a small infill development in line with the policies of the local plan and it is not considered that it can be resisted on these grounds.

Mention has been made of possible reduction in property value as a result of the development, but this is not a matter that carries weight in planning terms.

It has been suggested that bats may roost at the site. Bats are a protected species and it is an offence to harm them, planning permission would not override any legal requirements for their protection. In order to establish whether bats roost at the site and to ensure that no work that would cause harm to bats takes place it is suggested that a condition requiring a bat survey to be carried out prior to the submission of reserved matters and that all measures necessary to protect or relocate bats during development are put in place. The Council will liaise with English Nature with regard to the measures required.

#### Conclusion:

In conclusion it is considered that the redevelopment of the site is in accordance with the adopted policies of the Structure and Local plan and that subject to conditions, 3 two storey terraced properties could be successfully accommodated on the site without harm to visual amenity, residential amenity or highway safety. The application is recommended accordingly.

#### **SUMMARY OF REPRESENTATIONS:**

TOWN COUNCIL - No objection.

34 EDWARD COURT (2 letters) - Object. Gross overdevelopment.

The existing bungalow although higher than the first two properties fits in better and trees create more rural setting, the development will be overbearing and unsightly, loss of on-street parking. Parking is a continual problem in this area, loss of privacy, first floor windows would directly overlook our back gardens. Current spacious private affect created by the distance between the properties and the planting along the boundary will be lost. Bats have been seen in the area and may be roosting at the property. Many birds nest in the trees.

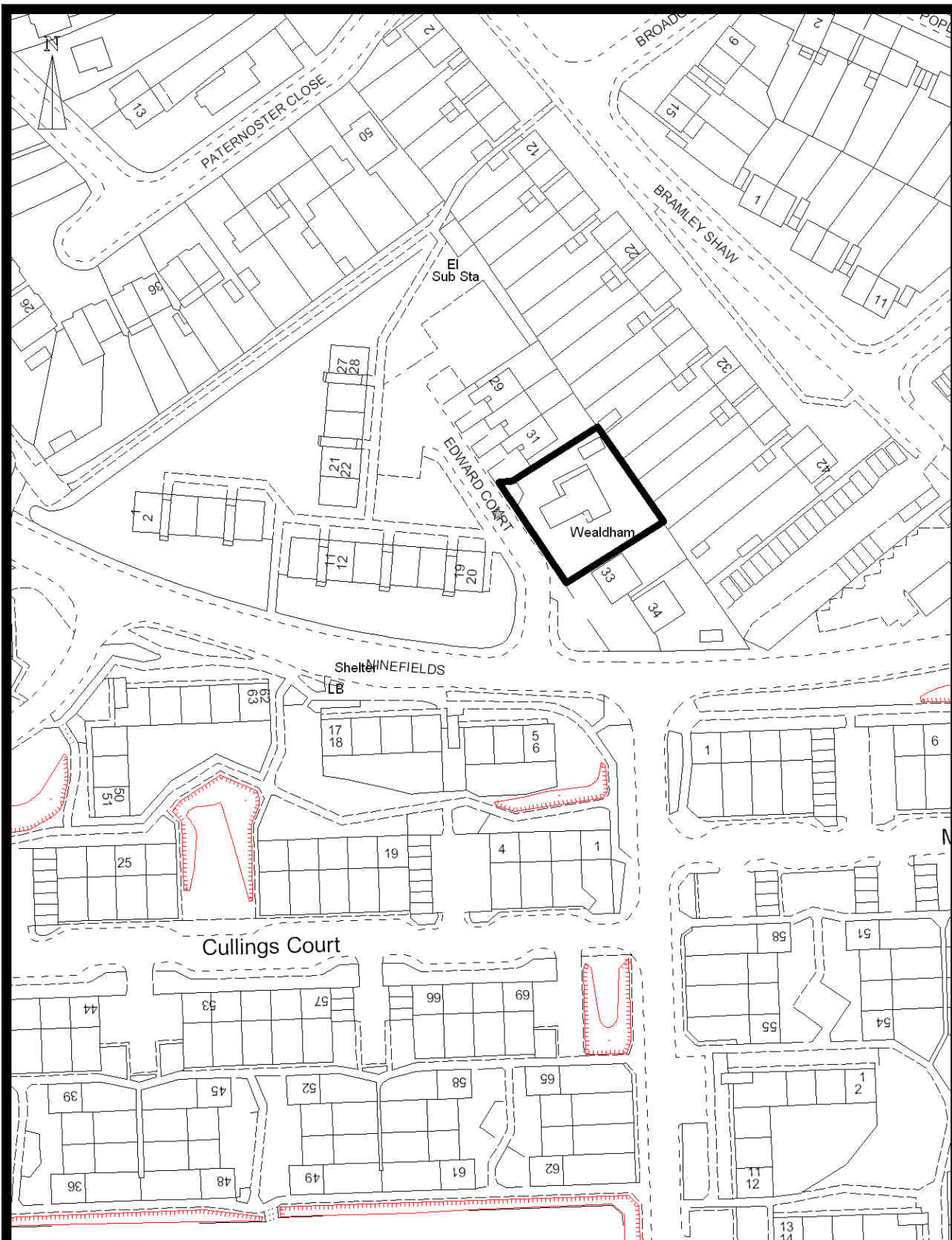
30 BRAMLEY SHAW - Completely opposed. Loss of light to the rear of my property and garden. Overlooking, loss of privacy. Local utilities and services can not cope with any more

housing. Parking problems will worsen. Loss of property value.

36 BRAMLEY SHAW - Loss of privacy, loss of property value. Sewage pipe from no. 32 goes through our property.

33 EDWARD COURT - Concerned because site is higher level than my property which is a bungalow. A terraced house will be an enormous intrusion on the light to my house. My side window will be overlooked. Also, overdevelopment, not suitable for a small close of houses, Parking problems. House will tower over my garden.





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