

## AREA PLANS SUB-COMMITTEE SOUTH

20 March 2019

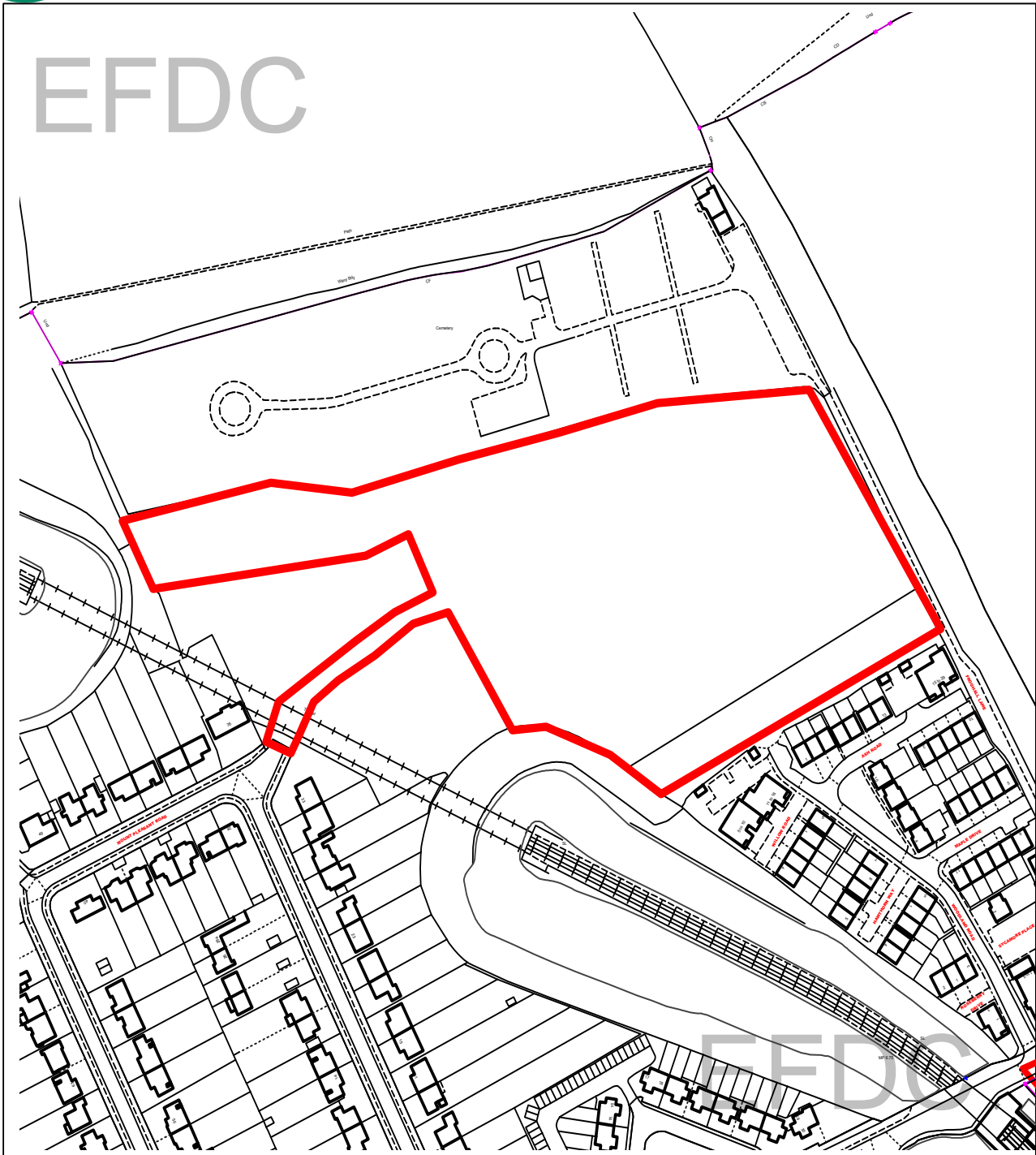
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# Epping Forest District Council

## Agenda Item Number 1



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Application Number:	EPF/1182/18
Site Name:	Land west of Froghall Lane Chigwell Essex
Scale of Plot:	1/2500

**Report Item No: 1**

<b>APPLICATION No:</b>	EPF/1182/18
<b>SITE ADDRESS:</b>	Land west of Froghall Lane Chigwell Essex
<b>PARISH:</b>	Chigwell
<b>WARD:</b>	Grange Hill
<b>APPLICANT:</b>	MPM Limited
<b>DESCRIPTION OF PROPOSAL:</b>	Hybrid application requesting full planning permission for an assisted living development comprising of apartments and integrated communal and support facilities; landscaped residents' gardens; staff areas; refuse storage; construction of a new site access; a sustainable urban drainage system; a new sub-station and associated infrastructure and services, and outline planning permission for a 0.45 hectare extension of the cemetery.
<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/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=608757](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=608757)

**REASON FOR REFUSAL**

- 1 By reason of making an insufficient contribution towards the provision of off-site affordable housing the proposal fails to make appropriate provision for affordable housing. It is therefore contrary to policies H5A, H6A, H7A and H8A of the Local Plan and Alterations and to Policy H 2 of the Submission Version Local Plan (2017), all of which are consistent with the National Planning Policy Framework.
- 2 The application does not provide sufficient information to satisfy the Council, as competent authority, that the development has not adversely affected the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such the development is contrary to Policies CP1 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), Policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version (2017) (all of which are consistent with the national Planning Policy Framework) and the requirements of the Habitats Regulations 2017.

- 3 In the absence of a completed Section 106 planning obligation the development has failed to mitigate against the adverse impact it has and will have on the Epping Forest Special Area for Conservation in terms of air pollution. Failure to have secured such mitigation is contrary to Policies CP1 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), Policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version (2017) (all of which are consistent with the National Planning Policy Framework) and the requirements of the Habitats Regulations 2017.

*This application is before this Committee since it is an application that is considered by the Service Director (Planning Services) as appropriate to be presented for a Committee decision (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).*

### **Description of Site:**

The application site comprises approximately 2.8 hectares of land situated west of Froghall Lane, between Chigwell Cemetery to the north and recent residential development to the south. The northern part of the site extends up to land that is part of the Central Line railway and over approximately 30m of a public footpath that heads north beyond the cemetery from Mount Pleasant Road (PROW 302\_125). The remainder of the site, other than a section for a proposed access road off Mount Pleasant Road, is set approximately 100m east of the existing turning head between 33 and 35 Mount Pleasant Road.

Land levels fall significantly from the main eastern site boundary to Froghall Lane. The change in levels is 9m across a distance of 175m. Levels in the north west corner of the site fall to the north, dropping approximately 1.5m over a distance of 30m.

The application site is entirely within the Green Belt. It is not in a conservation area and there are no preserved trees at or adjacent to the site. The entire site and adjacent land is in Flood Risk Zone 1.

Presently, the land is unused, appearing as scrubland.

### **Description of Proposal:**

Hybrid application requesting:

1. Full planning permission for an assisted living development comprising of apartments and integrated communal and support facilities; landscaped residents gardens; staff areas; refuse storage; construction of a new site access; a sustainable urban drainage system; a new sub-station and associated infrastructure and services, and;
2. Outline planning permission for a 0.45 hectare extension to Chigwell Cemetery.

The land the Outline component of the proposal only relates to the northern part of the site, west of a point approximately 70m west of Froghall Lane. The applicant does not propose to develop that part of the proposal beyond this seeking Outline consent. Rather, it is proposed to transfer ownership of the land to Chigwell Parish Council who own and manage the existing cemetery. The Applicant offers to do this in a S106 agreement. Thereafter, it would be up to the Parish Council to pursue the detail of the proposed cemetery extension through an application for approval of reserved matters.

The remainder of the site, some 2.34 hectares, relates to the full planning application component.

The site would be laid out as 5 buildings, identified as blocks A, B, C, D and E. They would have 4 floors containing a mix of one and two bedroom apartments. The development would include a total of 105 apartments comprised of 87 two-bedroom and 18 one bedroom apartments. The buildings would be arranged around a central landscaped area and linked by footpaths which also connect to parking areas. Car parking would be provided towards the edges of the site within a landscaped setting. The submitted layout plan shows 132 parking spaces would be provided.

Access to the site would be via Woodland Road to the south. It is also proposed to access the site from Mount Pleasant Road. To facilitate that the application proposes the construction of a 100m long access road from the turning head at Mount Pleasant Road to the western part of the site. It would be 5.2m wide and, together with all roadways on the site, would be a shared surface.

Blocks B, D and E would stand alone in the central and eastern part of the full application site. In addition to the apartments, a disability buggy/cycle store, plant room and small communal lounge would be provided in the ground floor.

Blocks A and C would be sited on higher land at the western part of the site. They would also have 4 floors but are called lower ground floor, upper ground floor, first and second floors rather than ground, first, second and third as in the other three blocks. The lower ground floor would contain two apartments in addition to a disability buggy/cycle store, plant room and small communal lounge. More extensive communal facilities would also be provided at lower and upper ground floor in both buildings. They are indicated on the submitted plans as larders and Wellness rooms. The submitted planning statement states the community facilities provided would also comprise of a library, restaurant, gym and cinema.

The community facilities rooms would extend beyond each building on both ground floor levels such that they form a two-storey link between the blocks. The link building would also contain a reception/office area. The reception would face towards the central landscaped area, but also be accessed through the link building from a parking area west of it.

Each Block would be designed to have steeply pitched roofs with prominent asymmetric gable features, the gables also forming parapets. Ridge heights would vary, typically be between 15.5m and 17.5m above ground level. They would be finished in a mix of materials, indicated as follows: block masonry at ground/lower ground floor levels; brick and render at upper floors; zinc as a roof covering.

#### Planning Obligation Offered

In addition to the transfer of land to Chigwell Parish Council for an extension to Chigwell cemetery, the Applicant also offers the following financial contributions to be secured by way of a S106 agreement:

- £1,000,000 contribution towards the provision of affordable housing in the District.
- £52,500 contribution towards the running costs of the Chigwell Hoppa Bus scheme.
- £24,909 contribution towards the provision of primary health care services.
- A contribution towards the implementation of measures to mitigate the impact of the development on air quality within the Epping Forest Special Area of Conservation, estimated to be approximately £52,500. (The precise sum required would be settled on adoption of a strategic scheme for mitigating the impact of new development on air quality within the SAC. The scheme is presently being agreed between the District Council and Natural England. The current estimated date for the Council adopting an agreement is the end of April 2019, although such estimates have regularly slipped during the past year suggesting a later date is possible.)

## **Relevant History:**

EPF/3386/16

Hybrid application requesting:

1. Full planning permission for an assisted living development comprising of apartments and integrated communal and support facilities; landscaped residents gardens; staff areas; refuse storage; construction of a new site access; a sustainable urban drainage system; a new sub-station and associated infrastructure and services, and;
2. Outline planning permission for a 0.45 hectare extension to Chigwell Cemetery.

*Refused (9 October 2017) on the basis that:*

1. The proposal as a whole is inappropriate development in the Green Belt and that the proposed buildings would be harmful to openness, and
2. The proposal makes insufficient contribution towards the provision of off-site affordable housing the proposal fails to make appropriate provision for affordable housing.

## **Policies Applied:**

*Adopted Local Plan:*

CP2	Protecting the quality of the rural and built environment
GB2A	Development in the Green Belt
GB7A	Conspicuous Development
H5A	Provision for Affordable Housing
H6A	Site thresholds for Affordable Housing
H7A	Levels of Affordable Housing
H8A	Availability of Affordable Housing in Perpetuity
NC1	SPA's, SAC's and SSSI's
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE4	Design in the Green Belt
DBE6	Car Parking in New Development
DBE9	Loss of Amenity
LL3	Edge of Settlement
LL11	Landscaping Schemes
ST1	Location of Development
ST2	Accessibility of Development
ST4	Road Safety
ST6	Vehicle Parking
I1A	Planning Obligations

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

*NPPF:*

The Revised National Planning Policy Framework (NPPF) has been published as of 1 February 2019. Paragraph 213 states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

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

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF. The Submission Version of the Plan is presently undergoing independent examination.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

In general terms it is considered that the Submission Version of the Plan is at an advanced stage of preparation and the policies are considered to be consistent with the NPPF. As regards unresolved objections, some policies within the Submission Version have more unresolved objections than others. All of these factors have been taken into consideration in arriving at the weight accorded to each of the relevant policies in the context of the proposed development listed below:

SP 1	Presumption in Favour of Sustainable Development
SP 2	Spatial Development Strategies 2011-2033
SP 6	Green Belts and District Open Land
SP 7	The Natural Environment, Landscape Character and Green Infrastructure
H 1	Housing Mix and Accommodation Types
H 2	Affordable Housing
T 1	Sustainable Transport Choices
DM 1	Habitat Protection and Improving Biodiversity
DM 2	Epping Forest SAC and the Lee Valley SPA
DM 3	Landscape Character, Ancient Landscapes and Geodiversity
DM 4	Green Belt
DM 5	Green and Blue Infrastructure
DM 9	High Quality Design
DM 10	Housing Design and Quality
DM 11	Waste Recycling Facilities on New Development
DM 15	Managing and Reducing Flood Risk
DM 16	Sustainable Drainage Systems
DM 22	Air Quality
P 7	Chigwell

The SVLP identifies the full application site for development of approximately 105 specialist dwellings, allocation reference CHIG.R4. The Plan does not explicitly define 'specialist dwellings'. It is clearly a form of residential use that is distinct from dwellings within Use Class C3. On that basis a general practical approach taken by Officers is to interpret 'specialist dwellings' as meaning any residential use that is not entirely within Use Class C3. CHIG.R4 is the only site allocation in the plan for specialist dwellings.

## **Consultation Carried Out and Summary of Representations Received**

Number of neighbours consulted: 255.

Site notice posted: Yes. In addition the application was advertised in the local press.

Responses received:

Letters of objection were received from the following 11 addresses:

17 Ash Road, Chigwell  
9 High Elms, Chigwell  
1, 2, 3, 9, 15, 33, 43 & 81 Mount Pleasant Road, Chigwell  
3 Woodland Road, Chigwell

The objections raised are listed below:

1. Insufficient contribution towards affordable housing.
2. Inappropriate development in the Green Belt that is harmful to it's openness. No very special circumstances in favour of the development exist.
3. Loss of a green field.
4. Dramatic and overwhelming visual impact in a largely open valley, appearing as a housing estate. Views across the land will therefore be diminished.
5. The height of the proposed buildings does not fit in with the character of the locality,
6. Does not address 'rights' connected with the public footpath.
7. Generation of an unsustainable increase in traffic that local roads could not cope with.
8. The site would be better accessed from Froghall Lane. It is unclear why that possibility is ruled out.
9. The application does not include any proposal to mitigate obstructive on-street parking on Woodland Road.
10. Planned yellow lines along Woodland Road have not been implemented. If they are not, the development would make access along Woodland Road nigh on impossible.
11. The proposed build should not proceed if the council does not apply waiting restrictions and lighten the congestion along Woodland Road
12. Given the proposed access to the site from Woodland Road, the need for the proposed access off Mount Pleasant Road is questionable while that element of the proposal seems indicative of a preference to access the site from Mount Pleasant Road.
13. Construction traffic access via Mount Pleasant Road would result in contractors parking in that road which, together with construction vehicle movements, will compound the harm caused in the implementation of recent railway works.
14. The movement of construction vehicles may harm properties on Mount Pleasant Road.
15. At present children can safely play in the gardens and pavement but this additional traffic would make this dangerous.
16. Harmful increase in pressure on local health services due to an increase in population from outside of the locality.
17. The environmental impact of the project is substantial. Pollution and CO2 levels will be impaired.
18. Residents of the development will be potential victims of crime and therefore the development is likely to result in an increase in the local crime rate.
19. No need for the form of development proposed.
20. There are better places for this type of development.
21. The provision of an extension to Chigwell Cemetery in exchange for a grant of planning permission is outrageous.
22. The proposed works would be likely to cause harm to the railway tunnel that passes under the route of the accessway proposed off Mount Pleasant Road.



23. It would make more sense to link into the new drains built for Woodland Road than run them to Mount Pleasant Road.
24. Grange Hill cannot take anymore large developments such as this.
25. The local infrastructure will not be able to cope.
26. The area frequently suffers from issues with water pressure and further large scale development may well exacerbate the situation.
27. There has already been large scale development in this area in recent years
28. Local residents have not been fully consulted

ESSEX COUNTY COUNCIL (Education Authority)

No need for any contribution towards education provision.

ESSEX COUNTY COUNCIL (Highway Authority):

*“The Highway Authority has considered the above planning application, visited the site and thoroughly assessed the submitted transport information and has concluded that the proposal is not contrary to current National/Local policy and safety criteria.*

*The applicant has submitted a robust Transport Assessment for the proposal and has demonstrated that the impact on the Woodland Rd/Manor Rd junction will be negligible. This is mainly because the future occupiers are highly unlikely to travel during the network peak hours. The parking is considered to be more than sufficient for the development given the location and the good access to other modes of sustainable travel available.*

*Consequently the Highway Authority is satisfied that the development will not be detrimental to highway safety, capacity or efficiency within Chigwell or on the wider highway network.”*

Conditions and informatives requested

LONDON UNDERGROUND:

No objection subject to conditions to safeguard the railway.

NATURAL ENGLAND:

No specific comments to make. Reference to standing advice.

NHS – West Essex CCG:

No objection subject to a contribution of £24,909 to offset the consequence for primary care services in the locality.

THAMES WATER:

No objection subject to conditions in relation to construction within the vicinity of a water main.

CHIGWELL PARISH COUNCIL:

“The Council **SUPPORTS** this application, this proposed development is a good utilisation of low grade Green Belt land, located in an appropriate setting.”

### **Screening Opinion**

The following is Officers screening opinion under Regulation 7(2) of the Town and country Planning (Environmental Impact etc.) Regulations 1999. Such opinions are given where an application that appears to be either a Schedule 1 or Schedule 2 application is submitted that has

not been the subject of a prior screening opinion and is not accompanied by an environmental statement for the purposes of the Regulations.

This development is not of a type that falls within Schedule 1 of the Regulations. However, since it amounts to an urban development project on a site that exceeds 0.5 hectares in area it falls within Schedule 2 of the Regulations. Officers therefore have to decide whether an environmental statement is required. Schedule 3 of the Regulations sets out criteria for carrying out that assessment. Having applied the criteria Officers conclude an environmental statement for the purposes of the Regulations is not required for this application.

Notwithstanding that conclusion, Members are advised the Applicant included comprehensive information with the application that assesses the environmental impact of the proposed development. That has been scrutinised by specialist consultees and conclusions on those matters are set out as appropriate in the issues and considerations section of this report.

### **Main Issues and Considerations:**

This application seeks to overcome the reasons for refusal of application EPF/3386/16 and is submitted in response to the allocation of the site for specialist housing in the SVLP. In summary, it maintains the Council's objection to the previous submission is addressed in two ways. Firstly, by maintaining there has been a material change in planning policy in respect of the application site such that the Green Belt balance is in favour of the proposal and, secondly, by submitting information with a view to demonstrating the proposal makes an appropriate level of contribution towards affordable housing.

Aside from the main issues of consequence for the Green Belt and requirement for affordable housing, this report will also consider the matters of design and visual impact together with highway considerations. Those matters will be weighed in the Green Belt balance while other matters including, affordable housing and the consequences for the Epping Forest Special Area of Conservation will be considered separately.

### **Consequence for the Green Belt**

The site is now allocated for development of the type the applicant proposes in the full application, that is, 105 units of specialist housing. That would result in a new Green Belt boundary around that part of the site and the site specific requirements for allocation CHIG. R4 include using existing landscape features to visually define that boundary and strengthening them as required. In that respect the submission includes landscape proposals that are acceptable to the Council's Tree and Landscape Officer and the proposal evidently seeks to ensure the development has a sylvan setting.

Although allocated for development within the SVLP, the application site, together with adjoining land between it and Mount Pleasant Road and land to the north, including Chigwell Cemetery, remain entirely in the Green Belt. That is because, notwithstanding its very advanced stage, the SVLP is not an adopted plan. The relatively recent development to the south also remains within the Green Belt. On that basis, the proposed development in the full application is inappropriate development in the Green Belt that would result in a significant reduction in its openness. The NPPF makes clear that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.

In relation to the outline proposal for an extension to Chigwell cemetery, the provision of appropriate facilities for cemeteries is one of the exceptions to inappropriate development listed in paragraph 145. That is not to say the cemeteries of themselves are not inappropriate development in the Green Belt. Due to the amount of small scale development, including sometimes substantial structures for marking graves and associated engineering operations

including roadways, cemeteries may sometimes appear as urbanising uses that do not preserve the openness of the Green Belt. The current proposal for an extension to Chigwell cemetery, since it is in outline form only, does not include any detail on the layout and design of the extension. That detail would be controlled by way of a condition should Members decide to grant planning permission, giving the Council the scope to ensure any specific proposal does safeguard the openness of the Green Belt. In those circumstances it is concluded the proposed extension to Chigwell Cemetery may be treated as not inappropriate development.

Taken as a whole, therefore, it is concluded the proposal is for a mix of inappropriate and not inappropriate development that, on the greater part of the application site, would be result in a reduction in the openness of the Green Belt.

Such development may only be permitted in very special circumstances. Whether such circumstances have been demonstrated is explored below.

### Need for the development

The SVLP and the Council's Infrastructure Development Plan (December 2017) do not propose any increase in cemetery provision within Chigwell. Indeed, they appear silent on the matter of cemeteries. The application does include evidence of need for the expansion of Chigwell Cemetery in the long term, beyond the period the SVLP covers, and Officers agree that need is demonstrated by the evidence. Officers consider it far preferable to expand the existing cemetery rather than create a new one to meet that need. However, the only way of meeting that need which is presently available is through the grant of consent for the proposal as a whole.

In relation to the need for a specialist housing for the elderly, it is clear that the Council proposes to make such provision by way of site allocation CHIG.R4. Moreover, the site allocation is the only such allocation within the SVLP. The Applicant has submitted evidence of the need and Officers do not disagree there is a need and that the need within Epping Forest District is somewhat higher than elsewhere. Census data supports that view.

In making site allocation CHIG.R4 the Council has taken a position that in order to meet that need it is necessary to release Green Belt land. The allocation attracted 2 representations at the Regulation 19 stage of the draft Local Plan (consultation on soundness prior to submission of the Plan for examination) only, one from the Applicant's agent and one from Thames Water.

In the circumstances, and given the very advanced stage of the SVLP, it is concluded that significant weight may be given to the site allocation.

### Design and visual impact

There is no material difference in the design and visual impact of the current proposal compared to the previous proposal, which was found to be acceptable in those terms. Since submission a minor change was made to the alignment of an internal roadway and adjacent parking spaces to pull them away from the southern site boundary and make better provision for soft landscaping adjacent to that boundary. The assessment of this component of the proposal is therefore essentially the same as that for the refused proposal and reproduced with minor modification below. It is emphasised that the Council's position on this matter was set in its decision to refuse application EPF/3386/16, when no design objection was raised.

Since the cemetery component of the proposal in outline form only, the matter of its design and visual impact cannot be fully assessed at this stage of the planning process. Should consent be given for the proposal that would be considered as part of a submission for approval of reserved matters. In general terms, however, the cemetery would be a low lying development that would

not clearly be seen from any built up area. It would, of course, appear highly visible from PROW 302\_125 since the footpath passes through the western end of the proposed extension to Chigwell Cemetery. However, it is likely a detailed design and layout for the proposal would successfully integrate the footpath therefore its route does not impact on the feasibility of the proposal.

As a built form, the proposed assisted living development would be well designed and laid out. The proposal is a bold modern design that is focused on a central green space with landscaped parking areas towards the edges of the site. The design of the buildings breaks up what could otherwise appear excessively bulky by way of an irregular footprint and steeply pitched gabled roofs with eaves at varying heights. A good mix of indicative materials would also assist in breaking up the bulk of the buildings. The buildings would nonetheless have coherent and relatively simple forms. The result would be a bold design in a landscaped setting that would relate well in scale and form to the recent development to the south, the built form most closely associated with it in terms of distance and land level.

The development would appear prominent from the north elevations of buildings to the south, however, given a minimum 30m separation distance that would not cause excessive harm to the visual amenities of the occupants of those buildings. Additional landscaping proposed adjacent to the site boundary will soften the appearance of the development further. No excessive loss of privacy would arise.

The proposal would contrast with the older housing at Mount Pleasant Road. That contrast is appropriate given the distance separating the older housing from the nearest buildings, Blocks A and C, and the drop in levels from Mount Pleasant Road to the buildings, some 6m. The drop in levels is such that the lower third of the buildings would not be seen from ground level at Mount Pleasant Road. No excessive harm would be caused to the visual amenities of houses in Mount Pleasant Road and no loss of privacy would arise.

Visually, the proposed access road linking Mount Pleasant Road to the site would direct the eye to the western entrance to the main reception area and communal facilities of the development as one descends from Mount Pleasant Road to Blocks A and C. The access road would be the natural primary route into the site and in urban design terms is preferable to the proposed primary route off Woodland Road. However, the fact it is not does not make the proposal unacceptable in design terms.

The development would be apparent in long views from the east but the degree of impact is limited. Existing trees would substantially screen views of it from Froghall Lane and particularly from Chigwell Cemetery.

In conclusion, the proposal is acceptable in design terms and would appear as a high quality development. The main visual impact would be on outlook from buildings to the south and their associated gardens/parking areas on the north side of those buildings. The impact on outlook would be significant, particularly to the east where Block E would be sited 30m from the rear elevations of the buildings. However, the degree of harm would not amount to excessive harm to amenity and what limited harm arose would be mitigated by landscaping within the site and on the site boundary.

Clearly, the proposal would cause harm by way of seriously reducing the openness of the site, amounting to an encroachment of the urban area into the countryside. That matter has been considered above in terms of consequence for the Green Belt.

### Access, parking and highway safety

As with the matter of design, Officer's assessment in relation to access, parking and highway safety is essentially the same as that for the refused application and no highways objection was raised to that scheme in the Council's reasons for refusal of application EPF/3386/16, establishing the Council's position on that matter. An updated assessment of this issue is set out as follows:

The extension to Chigwell Cemetery would be accessed from within Chigwell Cemetery. The Cemetery is accessed off Manor Road via Froghall Lane, a private road that for most of its length is not wide enough for two cars to pass each other. In the very long term that may well result in a need to resolve potential conflict in vehicle movements along Froghall Lane. For the foreseeable future, however, the proposal would not be likely to generate significant conflict. Since such conflict may arise in the very long term, and may not arise at all, it is unnecessary to deal with that matter now.

The access to the proposed assisted living development from Mount Pleasant Road would only be used for utilities and emergency services. A locked access gate at the Mount Pleasant Road junction is proposed to ensure that. That underscores the proposal to access the site from Woodland Road only. This can be secured by condition if required.

Presently Woodland Road has no parking restrictions and is heavily parked to the extent that vehicle movements along it can often be restricted when two cars attempt to pass each other. That situation is unsatisfactory and to resolve it Essex County Council has resolved to introduce parking restrictions along the length of Woodland Road, although the works to do so have not been implemented. In the circumstances it is highly likely parking restrictions will be introduced along Woodland Road some years advance of the proposed development being completed, should planning permission be granted. Consequently, the present restricted movement of vehicles along Woodland Road is very unlikely to impact on access to the proposed assisted living development.

Essex County Council, as Highway Authority, has given consideration to the consequences of the proposed access arrangements and likely traffic levels the development would generate. It advises that from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the imposition of a number of conditions in the interests of highway safety and efficiency and to promote sustainable transport. The detailed advice of the Highway Authority is set out in the consultation section of this report.

In relation to parking, the submitted site layout plan shows 132 parking spaces would be provided to serve the development, which would take the form of 105 serviced apartments, 87 of which would be two-bedroom dwellings and the remainder one-bedroom. Additional information submitted by the Applicant indicates the development would generate the equivalent of 15 full-time jobs. The consequence for demand for car parking would be reduced by the fact of a number of jobs being part time and arranged on a shift basis.

The Applicant emphasises the proposal is aimed at elderly people and states a planning condition restricting occupation to people aged 60 is acceptable, although no restriction is proposed on occupation by younger partners of residents. This is relevant since there is evidence to show car ownership reduces amongst elderly people. While that is recognised in the adopted parking standards, they do not specify a parking standard for uses such as that proposed. They are a form of interim residential development between a dwellinghouse and a care home which is not covered by the standards. However, the level of parking proposed at more than one for one within an accessible location is consistent with, if not higher than that provided at other similar developments approved elsewhere in the District.

Evidence submitted in support of the planning application demonstrates, on the basis of car ownership rates for over 65's, is the total expected number of cars owned by residents of the proposed development is 101. That theoretically allows for 31 spaces for staff and visitors. Similar developments by other providers have had a lower level of parking provision. In this case, the application site is very close to an Underground station and arguably more accessible therefore there is a reasonable prospect that the development would have a lower level of car ownership than anticipated. Furthermore, having regard to the SVLP, since all of the proposed blocks are within 400m of an underground station there is a clear planning policy justification for off-street parking provision well below that required by the Essex County Council Vehicle Parking Standards (2009).

The Applicant's offer to make a financial contribution to a local bus service is in accordance with the requirements of the Council's Infrastructure Delivery Plan (December 2017).

### Green Belt Balance

Inappropriate development in the Green Belt may only be approved where it is demonstrated material planning considerations outweigh the harm caused by the development and that those considerations are very special. The question of whether material considerations in favour of development are very special therefore only need be assessed following a conclusion that they outweigh the identified harm. Simply outweighing the identified harm is not equivalent to amounting to very special circumstances.

Harm would be caused to the Green Belt by way of the development as a whole being inappropriate, causing a reduction in openness and by conflicting with the purposes of including the land in the Green Belt.

Weighed against the identified harm are the benefits of the proposal in meeting the long term need for expansion of Chigwell Cemetery, the need for specialist housing for the elderly and the provisions of the SVLP for meeting such need through site allocation CHIG.R4, which seeks approximately 105 units of specialist housing on the full application site.

In relation to the cemetery point, the need for cemetery expansion in Chigwell is a long term need, beyond the life of the Local Plan currently being progressed. The proposed cemetery extension would add approximately 80 years additional capacity to Chigwell Cemetery. In the meantime, the existing cemetery has capacity for approximately 25 years of burials before the extension is required. There is the possibility that the expansion could be secured through future Local Plan process. However, to forego the opportunity available now is likely to result in a lost opportunity. That is because the offer of land for the cemetery is only available in the context of this application in advance of the adoption of the Local Plan. Given there is no objection to site allocation CHIG.R4, it is likely that would be carried through into the final adopted plan. In those circumstances, and since neither the SVLP or IPD identifies land for cemeteries in Chigwell, a developer would not be likely to consider it necessary to provide any land for the expansion of Chigwell cemetery. It is therefore concluded the provision for expansion of the cemetery in the application is a material consideration of significant weight.

In relation to the need for specialist housing for the elderly, the SVLP identifies other sites for residential development where, in theory, the need for specialist housing could be met. However, given the additional costs for developing such schemes, generated in part by the need for additional communal space within buildings and the need for larger sites, it is unlikely specialist housing could successfully compete with general housing for appropriate sites. In the circumstances, and given that CHIG.R4 is the only site allocation for specialist housing within the SVLP, it is concluded the need for specialist housing may be given significant weight.

The cumulative benefit of both providing land for Chigwell Cemetery expansion and specialist housing for the elderly in the context of an unopposed site allocation for specialist housing within the SVLP is considered to outweigh the harm the proposal would cause to the Green Belt. It is therefore necessary to consider whether those material considerations amount to very special circumstances in favour of the development.

These considerations are unique geographically given the Council proposes to meet the need for specialist housing on this particular site alone. The growing need for specialist housing is acknowledged in general and within the site allocation while it is unclear that similar scale proposals for specialist housing could be delivered elsewhere. The Council has refused planning permission for a proposal for specialist housing for the elderly at 13-15A Alderton Hill (EPF/2499/17) and is defending that decision at appeal. It is evident that only the current application site is deliverable for specialist housing. These considerations are also unique temporally since it is very likely that the land for the full application will be removed from the Green Belt in the short term. On that basis Officers conclude they amount to very special circumstances that outweigh the harm that would be caused to the Green Belt.

#### Requirement for affordable housing

Adopted planning policy seeks the provision of at least 40% of the total number of dwellings in new residential development as affordable housing in order to meet a shortfall in the provision of such housing in the District. Where it is not appropriate to provide affordable housing on the development site a contribution towards off site provision is an acceptable alternative. The level of contribution would be determined by an assessment of the viability of the development and the amount of subsidy required for a social housing provider to provide 40% of the number of proposed units as affordable homes.

In this case, notwithstanding that the internal arrangement of the proposed buildings is for apartments, the development would be managed as a whole. The main consequence of that is it would be impractical to provide 40% of the units as general affordable housing.

The Applicant continues to maintain the proposed development is a residential institution within Use Class C2, however, he no longer maintains the proposal is not a form of development from which planning policy seeks affordable housing. In those circumstances little would seem to turn on what Use Class, if any, the proposal is within. This matter was nonetheless considered in the assessment of the previously refused application and it is worth reproducing that assessment here since it amounts to a position the Council has already taken in respect of the proposal.

In support of their contention that the proposal is within Use Class C2, the Applicant previously provided Counsel's opinion, dated 1 August 2014, on the nature of the type of development proposed. The advice was the use is not within Use Class C3. However, it was ambivalent on whether the use falls within Use Class C2 or is in a class of its own, a 'sui-generis' use.

While Officers agreed on the first point, they were not convinced the use proposed falls within Use Class C2. To settle this, Counsel's opinion was sought. The advice given to the Council was that while the proposal does not fall within Use Class C3, it is neither a use within Use Class C2 nor a mixed use comprising of Use Classes C2 and C3 on the basis that none of the apartments would be a Class C3 dwellinghouse. Counsel's advice was therefore that the specific proposal before Members is a 'sui-generis' use.

Officers also sought advice from Counsel on whether adopted planning policy allowed for securing a contribution towards affordable housing in connection with this specific proposal. The advice given is that under adopted policy the apartments could be treated as "housing" and "dwellings" and the application could be treated as one for "residential use" as referred to in the policies.

Counsel pointed out adopted policies do not refer to the C3 Use Class nor do they tie contributions to only C3 dwellinghouses. Furthermore, the adopted policies appear to generally conform to advice in NPPF. Accordingly, there is a reasonable basis for seeking a contribution towards affordable housing in connection with the development proposed.

That position is reinforced by SVLP policy H 2, which requires developments of 11 or more homes or of more than 1000m<sup>2</sup> of residential floorspace to make provision for affordable housing at the same rate that the adopted Local Plan policy does. The Applicant seeks to demonstrate compliance with the policy by demonstrating their offer of a contribution of £1,000,000 towards the provision of off-site affordable housing, increased from an original offer of £488,526, is in accordance with its requirements.

Initially the Applicant submitted a viability study to demonstrate what an appropriate contribution for affordable housing could be. That report, dated 16th May 2018 by GL Hearne, found that *“the residual land value generated by the proposed development is below the Benchmark Land Value based upon what would be considered as an acceptable return for a development of this nature.”* In other words, no affordable housing contribution could be supported and the initial offer of £488,526 is on a without prejudice basis.

(Members are reminded that the proposal was subsequently amended to also include a contribution of £24,909 towards the provision of primary health care services and a contribution of up to £52,000 towards measures for mitigating the impact of the proposal on air quality within the Epping Forest SAC.)

In order to properly advise planning officers on the matter of an appropriate contribution for affordable housing the Director of Communities put the GL Hearne viability assessment to the Council's viability consultant, Kift Consulting Limited (KCL), for validation. Following their analysis KCL concluded the approach taken by GL Hearne was flawed and therefore KCL would not confirm the validity of the viability assessment. The key difference between KCL and Kift Consulting is the approach to establishing the existing use value of the site for viability assessments.

The establishment of existing use value is a complex matter. In this regard, paragraph 012 of the Planning Practice Guidance issued in 2018, one of a suite of documents supporting the National Planning Policy Framework, states:

*“To define land value for any viability assessment, a benchmark land value should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to comply with policy requirements. This approach is often called ‘existing use value plus’ (EUV+).*

*In order to establish benchmark land value, plan makers, landowners, developers, infrastructure and affordable housing providers should engage and provide evidence to inform this iterative and collaborative process.”*

In relation to benchmark value, paragraph 013 states:

*“Benchmark land value should:*

- *be based upon existing use value*
- *allow for a premium to landowners (including equity resulting from those building their own*



- homes)
- reflect the implications of abnormal costs; site-specific infrastructure costs; and professional site fees and
- be informed by market evidence including current uses, costs and values wherever possible....

*Where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan....”*

Further guidance on existing use value is given at paragraph 014, which states:

*“Existing use value (EUV) is the first component of calculating benchmark land value. EUV is the value of the land in its existing use together with the right to implement any development for which there are policy compliant extant planning consents, including realistic deemed consents, but without regard to alternative uses. Existing use value is not the price paid and should disregard hope value. Existing use values will vary depending on the type of site and development types.”*

Existing use value + is addressed in paragraph 015, which states:

*The premium (or the ‘plus’ in EUV+) is the second component of benchmark land value. It is the amount above existing use value (EUV) that goes to the landowner. The premium should provide a reasonable incentive for a land owner to bring forward land for development while allowing a sufficient contribution to comply with policy requirements.*

Paragraph 016 addresses the matter of whether alternative uses may be used in establishing benchmark land value. It states:

*“For the purpose of viability assessment alternative use value (AUV) refers to the value of land for uses other than its current permitted use, and other than other potential development that requires planning consent, technical consent or unrealistic permitted development with different associated values. AUV of the land may be informative in establishing benchmark land value. If applying alternative uses when establishing benchmark land value these should be limited to those uses which have an existing implementable permission for that use. Where there is no existing implementable permission, plan makers can set out in which circumstances alternative uses can be used. This might include if there is evidence that the alternative use would fully comply with development plan policies, if it can be demonstrated that the alternative use could be implemented on the site in question, if it can be demonstrated there is market demand for that use, and if there is an explanation as to why the alternative use has not been pursued. Where AUV is used this should be supported by evidence of the costs and values of the alternative use to justify the land value. Valuation based on AUV includes the premium to the landowner. If evidence of AUV is being considered the premium to the landowner must not be double counted.”*

Following the advice of the PPG (then in draft form), KCL produced a validation report dated 16 July 2018 in which it concluded an EUV+ value of £525,980 should be used to represent the land/site value in the viability appraisal. GL Hearn had proposed a different land value (Residual Land Value rather than EUV+) of £4,216,893 with very different implications for the viability of the development and the potential for the development to contribute to affordable housing. GL Hearn’s viability assessment concluded *“the proposed scheme contained within the application produces a Residual Land Value below what is considered an appropriate Benchmark Land Value for this type of development”*, essentially maintaining the proposal is significantly unviable, resulting in a deficit of £6.2m. KCL disagreed, finding it would generate sufficient surplus to enable it to provide a commuted sum of £4,503,358 and remain financially viable with a remaining surplus of £117,880.

GL Hearn subsequently rebutted KCL's findings and these were given consideration by KCL following the present PPG advice. That resulted in KCL agreeing a higher EUV+ of £2,145,000. While that would not allow for a policy compliant scheme delivering a contribution equivalent to support 40% affordable housing, KCL found it would support 18% affordable housing and deliver a small surplus of £46,402 which can be used as an additional financial contribution towards affordable housing. KCL therefore concluded a reduced total commuted sum of £2,533,122 can be supported by the proposed development.

GL Hearn submitted a further rebuttal maintaining its original conclusion that the development is not viable to support a contribution towards affordable housing, but noting that notwithstanding their conclusion, the Applicant still offers a contribution of £488,526. One of the points made by GL Hearn relates to whether site allocation CHIG. R4 would be likely to be developed for general residential housing if it were not developed for specialist housing. On the basis of informal pre-application Officer advice GL Hearn maintained general residential development of the site should be treated as a likely alternative use for the land and therefore the land should be given a higher value. Following subsequent discussion with the Planning Policy Team Officers reconsidered their informal advice on the basis of a reappraisal of the weight to be given to the site allocation and site specific requirements set out in the SVLP. Officers therefore advised KCL that a general residential development of the CHIG.R4 site would be contrary to the SVLP allocation and the Council would be bound to defend that allocation, especially if it is brought forward into the adopted Local Plan as seems likely. Officers consistently advised KCL it is very unlikely the Council would permit the development of the site for general residential development.

KCL responded to GL Hearn's second rebuttal, concluding it is not persuaded by any of the information contained within it to reconsider their earlier revised conclusion that a reduced total commuted sum of £2,533,122 can be supported by the proposed development. KCL also emphasised that sum would only be equivalent to providing 18% affordable housing rather than the policy requirement for a 40% contribution, but that was all the scheme could viably contribute. On the basis of KCL's advice, Officers continue to seek a total affordable housing contribution of £2,533,122.

The Applicant has carefully considered the position maintained by Officers supported by KCL and responded with a statement in which the offer of a contribution towards affordable housing that is increased from £488,526 to £1,000,000. The statement is reproduced below setting out the Applicant's final position on the matter of affordable housing and sets out total contributions to be offered in connection with the proposed development:

*"We have been unable to reach agreement on the level of affordable housing contributions that are viable for the scheme. You will recall that our assessment states that no affordable housing contribution is viable on the site, whereas the Kift assessment concludes that a contribution of £2,533,122 is viable.*

*The areas that we have not been able to agree on are as follows:*

- *Inclusion of Ground Rents in the KCL financial appraisal;*
- *Site area / inclusion of cemetery land;*
- *GLH adopted BLV; and*
- *Existing Use Value plus a premium EUV+.*

*We have both concluded that it will not possible to be able to reach agreement on this matter and your Committee Report will need to reflect this accordingly. Neither our Planning Statement or Viability Appraisal for this application set out any offer for affordable housing, however, we fully recognise that the Council is seeking to avoid setting a precedent of undermining its affordable*

*housing policy and thus in the interests of securing a consent we are prepared to offer a total off-site affordable housing contribution of £1,000,000. This offer is made without prejudice of our established viability position and this sum of money reflects our motivation to secure a planning permission, rather than any fallibility of the viability appraisal or evidence provided so far. It should be noted that no further increase to this contribution can be made.*

*To summarise our total offer of planning contributions is as follows.*

- *Affordable Housing - £1,000,000.*
- *Provision of approximately 1 acre of land to the Parish Council for the extension of Chigwell Cemetery.*
- *Hopper bus contribution - £52,500.*
- *NHS - £24,909.*
- *Epping Forest Air Quality – TBC, but expected to be £52,500.”*

It is recognised the Applicant has moved some distance from their original position, which was that of their last refused application. Notwithstanding that recognition, it is also recognised the offer of a contribution of £1,000,000 would achieve the equivalent of 8.5% affordable housing, some way short of the 18% equivalent the scheme is demonstrably capable of supporting. In the circumstances, and given the weight of evidence provided by KCL, the Applicant's final offer cannot be taken as equivalent to compliance with the requirements of SVLP policy H 2.

Members are advised the Applicant submitted additional information they had overlooked which has a bearing on the matter of viability. The information was submitted just before the deadline for reports to this meeting when this report had been completed. While it is unlikely to result in any change in Officers' overall assessment of the matter of affordable housing, it may potentially reduce the difference between the positions taken by the Applicant and Officers. KCL has been asked to assess the new information and the results of that assessment will be presented verbally.

### Special Area of Conservation

The Conservation of Habitats and Species Regulations 2017 has been enacted and the decision made in High Court in the case *Wealden District Council vs Secretary of State for Communities and Local Government and Lewes District Council and South Downs National Park and Natural England (2017) EWHC (Admin)* has been published. In light of this legislation and judgement Natural England now requires that the determination of planning applications in relation to Epping Forest Special Area of Conservation (SAC) and air quality in the District in general be more stringent. Appendix 2 herewith comprises a copy of the letter from Natural England to the Council which detail their interim advice prior to the publication of the updated Habitats Regulation Assessment

The publication of the Submission Version Local Plan in December 2017 now contains two policies which were not relevant at the time of the determination of the application, but in light of the amendments to legislation and the Court ruling are now considered to be a material consideration in all planning applications for new development. These are Policy DM2 and Policy DM22.

Policy DM2 requires:-

*All outline or detailed planning applications for new homes within the settlements of Loughton, Epping, Waltham Abbey, North Weald Bassett, Theydon Bois, Coopersale, Thornwood, Buckhurst Hill, Chigwell Row will be required to make a financial contribution to access management and monitoring of visitors to the Epping Forest SAC, in accordance with Visitor Survey Information which demonstrates this is needed.*

Policy DM22 requires

*Larger proposals, or those that have potential to produce air pollution, to undertake an air quality assessment that identifies the potential impact of the development, together with, where appropriate, contributions towards air quality monitoring. Assessments shall identify mitigation that will address any deterioration in air quality as a result of the development, having taken into account other permitted developments, and these measures shall be incorporated into the development proposals. This will include an assessment of emissions (including from traffic generation) and calculation of the cost of the development to the environment. All assessments for air quality shall be undertaken by competent persons.*

Unlike policy DM2, this policy applies to development of all types and all locations as they all have the potential to result in increased traffic generation which would put pressure on the roads through the Epping Forest.

The application site lies outside of the zone identified by Natural England as being likely to result in harm to the Epping Forest SAC as a result of increased leisure use. However, it is likely to generate an increase in traffic which would have an additional adverse impact on air quality in general. The Council is awaiting instruction from Natural England in collaboration with Conservators of Epping Forest as to what measures an applicant is required to take in order to address the impact on air quality. In the circumstances, notwithstanding the Applicant's offer to make a full contribution to whatever mitigation measures are eventually proposed, it would be premature to grant consent without further clarity on the detail of any mitigation strategy, and without an appropriate legal agreement in place to secure the relevant contributions.

Consequently, should Members wish to grant consent subject to a suitable planning obligation it would not be possible to complete that obligation and issue the consent until the Council adopts a detailed mitigation strategy to overcome the effect of the development on air quality in the SAC. On the other hand, should Members wish to refuse planning permission it would necessary to include a reason to the effect that, in the absence of an agreed mitigation strategy the application the Council cannot be satisfied that the development will not cause harm to the integrity of the SAC.

#### Other matters

The proposal would offset the consequence for local healthcare provision by way of an appropriate contribution towards the provision of primary health care services.

The site is within Flood Risk Zone 1, the lowest level of flood risk where development is directed. The Council's Land Drainage Team considers the proposal acceptable, supported by a good FRA. The matter of drainage was also considered by Thames Water, who raise no objection subject to conditions to protect their infrastructure. London Underground similarly considers their infrastructure can be adequately protected by suitable conditions.

There would be adequate provision for the storage and collection of waste.

There is no known archaeology on the proposed development site, or in the immediate vicinity.

In relation to biodiversity at the application site, Countrycare advises the proposal is acceptable subject to an appropriate condition. Sustainability measures such as the provision of electric vehicle charging points and limitations on water usage can be addressed by way of standard conditions.

Matters raised by local residents are largely addressed above. Safety is a material planning consideration and as a managed development it is not considered the consequence for crime would be greater than any other residential development. It is therefore concluded there is no substance to the concern that the development would be likely to result in an increase in crime in the locality.

The consequence for amenity and safety as a result of construction works and associated vehicle movements is important to address. This can be done by way of suitable conditions restricting working hours and requiring a construction method statement to be approved prior to works and thereafter adhered to.

### **Conclusion:**

The application seeks to overcome the Council's reasons for refusal of application EPF/3386/16 which proposed a near identical development. That application was refused on the basis of harm to the Green Belt and failure to make proper provision for affordable housing. A significant material change in circumstances since that application was refused is the allocation of the site for specialist housing in SVLP site allocation CHIG.R4, which seeks approximately 105 specialist housing units..

Since the SVLP is not the adopted Local Plan, notwithstanding the allocation of the site for specialist housing within the SVLP, the application site remains within the Green Belt. The outline proposal for an extension to Chigwell Cemetery is not inappropriate development in the Green Belt and, subject to appropriate conditions, would not cause a significant reduction in its openness. The detailed proposal for an assisted living development is inappropriate development in the Green Belt and would cause significant harm to its openness. However, it is evident from the above analysis that the cumulative impact of material considerations in favour of the development would outweigh the harm that would be caused to the Green Belt. Those material considerations comprise of:

- The provision of land for the expansion of Chigwell Cemetery;
- The allocation of the site for specialist housing in the Submission Version of the Local Plan (site allocation CHIG.R4);
- The likelihood of site allocation CHIG.R4 being carried forward into the adopted plan;
- The fact that site allocation CHIG.R4 is the only allocation within the SVLP for specialist housing and consequently the primary way in which it is proposed to meet the need for such accommodation.

Those considerations are unique geographically given the Council only identifies this particular site to meet need for specialist housing within the District. The growing need for specialist housing is acknowledged in general and within the site allocation and it is unclear whether similar scale proposals for specialist housing could be delivered elsewhere as windfall developments. These considerations are also unique temporally since it is likely the land for the full application will be removed from the Green Belt in the short term with the consequence that the opportunity to secure an extension to Chigwell Cemetery through a further application is lost. For those reasons it is concluded those material considerations that outweigh the harm the development would cause to the Green Belt amount to very special circumstances.

The proposal is acceptable in all other respects except in respect of the provision it makes for affordable housing. Planning policy seeks an appropriate contribution towards affordable housing in lieu of the provision of 40% of the proposed dwellings as affordable housing, subject to the contribution being viable. Specialist advice to the Council is that the development could support a contribution of £2,533,122 and remain viable. That is at odds with the Applicant's position that the scheme cannot viably support any contribution and with the Applicant's without prejudice offer of a

contribution of £1,000,000 towards affordable housing within the District. The implications of additional information received too late for the detail of Officer's assessment will be considered and findings presented verbally.

As is explained in the main body of this report, both the Applicant and the Council's consultants have undertaken considerable work that has resulted in a shift in the Council's position and an offer from the Applicant that goes some way towards the providing the sum the Council maintains would be a viable contribution. However, the Applicant's position on the matter of affordable housing is unchanged and their without prejudice offer of £1,000,000 falls considerably short of the sum the Council considers to be a viable contribution.

In the circumstances, it is recommended that planning permission be refused for the proposal on the basis that it makes insufficient provision for affordable housing within the District.

Furthermore, since there is presently no agreed strategy for mitigating the consequence of the development for air quality within the Epping Forest Special Area of Conservation (SAC), the Council cannot at this time be sure that the proposal would not cause harm to the integrity of the SAC. Therefore, should Members agree with Officers recommendation that planning permission be refused on the basis of making insufficient contribution for affordable housing, it would be necessary to also refuse the application on the basis it fails to demonstrate the development would not cause harm to the SAC and, as a consequence, is contrary to both planning policy and to the Habitats Regulations 2017.

Should Members disagree with Officers recommendation and decide to grant planning permission it will be necessary to refer the application to the National Planning Casework Unit (NPCU) under the Town and Country Planning (Consultation) (England) (Direction) 2009 since the proposal is a departure from the Green Belt policies of the adopted Local Plan.

In the event of the NPCU deciding the decision should fall to the Council to make, then no planning permission could be issued until the Council was satisfied the proposal would not cause harm to the SAC. In practice, that would be after the adoption of a strategy for mitigating the consequence of development in the District for air quality within the SAC. Work on that is on-going but it is not possible to say with any precision when that might be.

*Way Forward:*

In the event of planning permission being refused, the Applicant is advised to engage further with the Local Plan process and take a view on how to proceed following the issue of the Inspector's report following independent examination of the SVLP.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Stephan Solon  
Direct Line Telephone Number: 01992 564018***

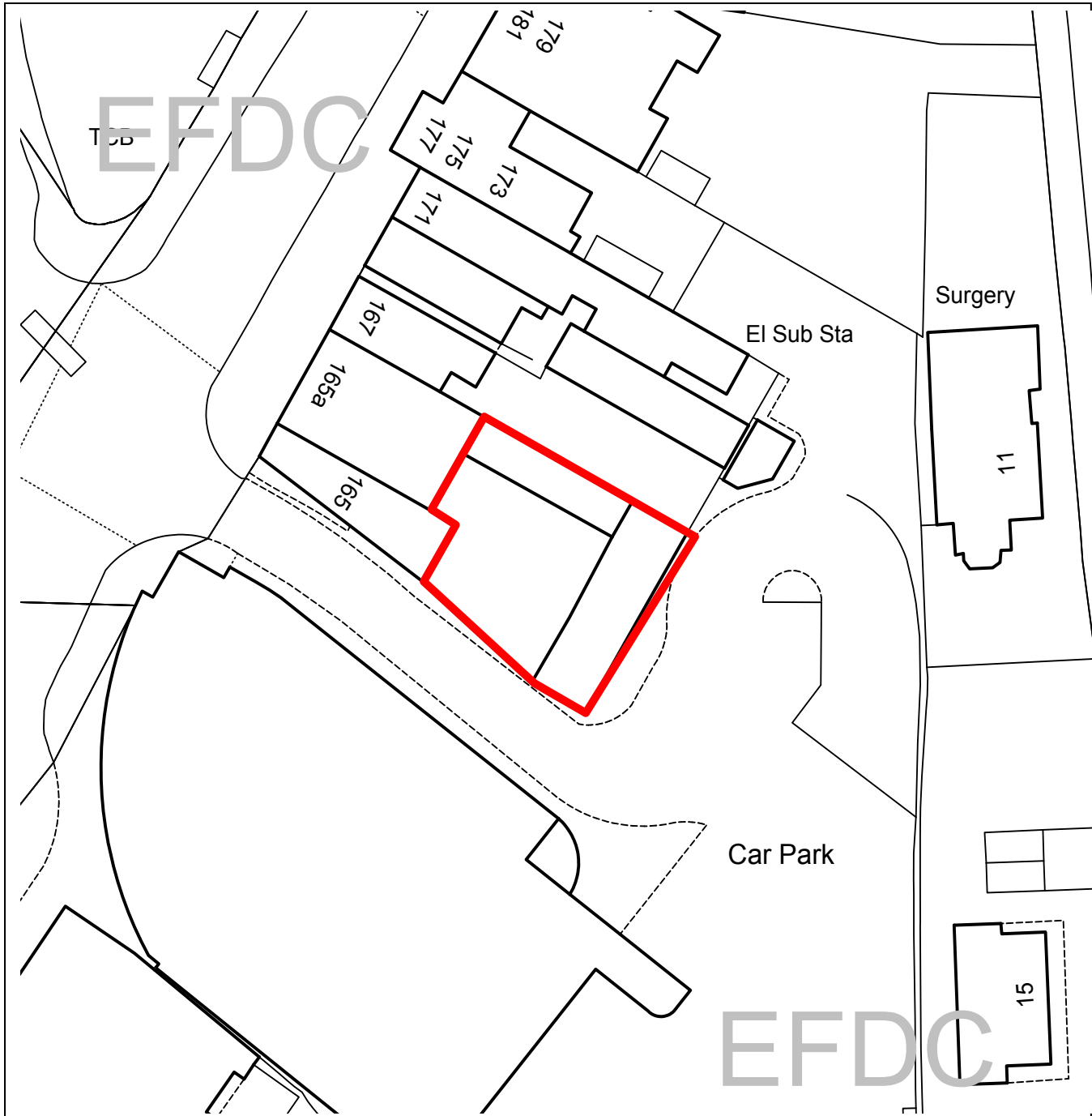
***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***

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# Epping Forest District Council

## Agenda Item Number 2



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Application Number:	EPF/3302/18
Site Name:	Rear of 165 High Road Loughton Essex IG10 4LF
Scale of Plot:	1/500



**Report Item No: 2**

<b>APPLICATION No:</b>	EPF/3302/18
<b>SITE ADDRESS:</b>	Rear of 165 High Road Loughton Essex IG10 4LF
<b>PARISH:</b>	Loughton
<b>WARD:</b>	Loughton Forest
<b>APPLICANT:</b>	SAFL Property Ltd
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of a one storey roof extension to provide an additional 2 no. flats (2 x 1-bedroom penthouse flats) (- as an addition to 5 storey building being erected on the site under EPF/2600/14.)
<b>RECOMMENDED DECISION:</b>	Permission (Subject to Legal Agreement)

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

[http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=618355](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=618355)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos:  
939-A002, 939-A100B, 939-A102B, 939-A110A, 939-A500A, 939-A502A, 939-A600A, 939-A602A, 939-A610A, 939-A620A, 939-A702A, 939-A710A, 939-A720A, 939-A730A, 939-A800A, 939-A802A, 939-A810A, 939-A812A, 939-A820A, 939-A822A, 939-A830A, 939-A832A, 939-E001, 939-E100, 939-E101-A, 939-E200, 939-E300, 939-E400, 939-E820 and 939-E830
- 3 Materials to be used for the external finishes of the proposed development shall match those of the approved building EPF/2600/14 (materials as agreed under application EPF/2996/18), unless otherwise agreed in writing by the Local Planning Authority.
- 4 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

**And subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure a financial contribution towards mitigation of the impact of the development on visitor pressure in the Epping Forest Special Area of Conservation.**

*This application is before the Committee since the recommendation is for approval contrary to an objection from a Local council which is material to the planning merits of the proposal, and the Local Council confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

**Description of Site:**

The site is to the rear of 165 High Road within the built up area of Loughton. The site currently forms the rear of the High Road fronting property and a car parking area. The site is accessed by an access way between 165 High Road and the Marks and Spencer on the opposite side. The site has planning permission for a 5 storey development of 12 flats. The development as a whole has commenced but no work on a new building has taken place. The site is not within the Metropolitan Green Belt or a Conservation Area.

**Description of Proposal:**

The proposal seeks consent for an additional storey (total 6 storeys) to the permitted scheme to provide 2 additional 1 bedroom flats. The scheme will increase in height by 1.7m (as part of the new storey will be located behind the existing parapet). The new penthouses will be set back from the High Street elevation by 18.2m, set back from the rear building line by 1.5m, and in from the sides by minimum of 2.5m. A balcony is proposed for each dwelling, one to the rear and one to the side (facing towards Marks and Spender).

**Relevant History:**

Extensive history, the most relevant of which is:

EPF/0221/11 - Refurbishment and enlargement of existing building by way of a basement storage area, construction of one additional storey and erection of a four storey rear extension incorporating 5 parking spaces, extension to ground floor commercial units (12 additional flats) comprising 6 studio flats, 8 one bedroom flats and 2 three bedroom flats – Refused and dismissed at appeal

EPF/0708/12 - Refurbishment and enlargement of existing building by way of basement storage area, construction of additional storey, and erection of a four storey rear extension incorporating 5 parking spaces, extension to ground floor commercial units (12 additional flats) comprising 6 studio flats, 8 one bedroom flats and 2 three bedroom flats – Approved

EPF/2081/12 - Minor material amendment to EPF/0708/12 to remove the rear parking spaces and replace them with office space. Bin store access will be moved to rear facade.

(Refurbishment and enlargement of existing building by way of basement storage area, construction of additional storey, and erection of a four storey rear extension incorporating 5 parking spaces, extension to ground floor commercial units (12 additional flats) comprising 6 studio flats, 8 one bedroom flats and 2 three bedroom flats) – Approved

EPF/2600/14 - The demolition of an existing outbuilding and a small section of stairwell to the rear. The erection of a 5 storey building to the rear of the site to provide one commercial unit (Use Class A2) at ground floor and 12 flats (8 x 1 bedroom and 4 x 2 bedroom flats) on upper floors. The refurbishment and revitalisation of the existing building to the front of the property including the erection of an additional floor to provide 2 x 1 bedroom flats – Refused but Allowed at appeal

EPF/2609/18 - Application for Approval of Details Reserved by Condition 4 'Construction Method Statement' of EPF/2600/14. (Demolition of an existing outbuilding and a small section of stairwell to the rear. The erection of a 5 storey building to the rear of the site. The refurbishment and revitalisation of the existing building to the front of the property). – Details approved

EPF/2996/18 - Application for Approval of Details Reserved by Condition 20 for EPF/2600/14 "matching materials". (Demolition of existing outbuilding & small section of stairwell, plus erection of a 5 storey building to the rear of the site, refurbishment & revitalisation of the existing building to the front of the property) – Details Approved

EPF/3176/18 - Non-Material Amendment to EPF/2600/14 for alterations to windows, brickwork, balconies and roof - Approved

### **Policies Applied:**

#### *Adopted Local Plan:*

CP1 – Achieving Sustainable Development Objectives  
CP2 – Protecting the Quality of the Rural and Built Environment  
DBE1 – Design of New Buildings  
DBE2 – Amenity Issues  
DBE3 – Development Layout  
DBE8 – Private Amenity Space  
DBE9 – Loss of Amenity  
ST6 – Car parking

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

#### *NPPF:*

The Revised National Planning Policy Framework (NPPF) has been published as of February 2019. Paragraph 213 states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

#### *Epping Forest District Local Plan (Submission Version) 2017:*

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

In general terms it is considered that the Submission Version of the Plan is at an advanced stage of preparation and the policies are considered to be consistent with the NPPF. As regards unresolved objections, some policies within the Submission Version have more unresolved objections than others. All of these factors have been taken into consideration in arriving at the weight accorded to each of the relevant policies in the context of the proposed development listed below:

#### SP3-Place Shaping

H1 – Housing Mix and Accommodation Types

T1 – Sustainable Transport Choices

DM2 – Epping Forest SAC and the Lee Valley SPA

DM9 – High quality design

DM10 – Housing design and quality

DM11 – Waste recycling facilities on new development

DM18 – On site management of waste water and water supply

DM22 – Air Quality

#### **Consultation Carried Out and Summary of Representations Received**

Number of neighbours consulted: 30

Site notice posted: Yes

Responses received: 5 Objections received:

9 STATION ROAD – Objection – loss of sunlight, increase in height means more residents overlooking property, out of character and will add to overcrowding and traffic

17 STATION ROAD – Objection – severely detrimental effect on privacy within garden, out of keeping with character of High Street, and detrimental to sightlines from property, increase in dwellings results in increase in noise and disturbance.

20 STATION ROAD – Objection – penthouse would loom above High Street, out of keeping with Lopping Hall, materials not in keeping, would set a precedent

22 STATION ROAD – Objection – visual access to first floor of property

LOUGHTON RESIDENT'S ASSOCIATION (PLANS GROUP) – Objection – out of keeping with 2, 3, 4 storey buildings, set an unfortunate precedent, will be visible from the south

LOUGHTON TOWN COUNCIL - The Committee OBJECTED to this application stating that the building in the approved plans was currently too high, without adding another floor. It would set a precedent. This was an open part of the town with Standard Green opposite. The proposal would enclose the area, would be overbearing dwarfing the adjacent buildings and would have a detrimental impact on the street scene.

The Council confirmed by email that a representative would speak at Committee on this item.

## **Main Issues and Considerations:**

The 5 storey building has been approved (at appeal) under planning reference EPF/2600/14 – this application is still extant (as the permission has been implemented with the refurbishment & revitalisation of the existing building to the front of the property). This application therefore only concerns the addition of the extra storey which will provide two x 1 bedroom flats. Therefore the main issues to consider are the design and amenity.

### *Character and design*

In isolation the design of the 6<sup>th</sup> floor is considered generally acceptable, it will complement the rest of the building and provide an attractive top to the development, softening and providing more detailing to the 'flat-top' currently approved.

This part of the High Road has a range of building heights, from single storey (Forest Hall), to two storey (the row of shops including Lopping Hall), 3 storey (the existing frontage of 165 and the Palace Fish Bar opposite) to 4 storeys (The Old Crown/Tom, Dick and Harry's Block). In addition, the tower/spire of Lopping Hall is well above its 2 & ½ /3 storey neighbour (HSBC). This approved scheme and therefore the addition of a 6<sup>th</sup> floor will result in this building being the tallest in this part of Loughton High Road.

Notwithstanding that the proposal will result in the tallest building in the locality, it was noted within the previous appeal decision that the proposal (at 5 storeys) will not be '*significantly higher than some of the nearby buildings. This is because many of the existing larger buildings, such as Crown House on the corner of the High Road and Old Station Road, appear to have a larger ground or other storeys floor to ceiling distance. Although such buildings may only contain 4 stories, due to the greater head height these buildings are higher per storey than that which is proposed.*

This current proposal will only increase the height of the approved built form by 1.7m and due to the adequate set in from the front, rear and sides the proposal will not be significantly visible from surrounding viewpoints. The 6<sup>th</sup> floor is set well to the rear of No. 165, some 18.2m from the main front wall of No. 165 and therefore because of this significant set back, the proposal is not considered to be an overbearing addition to or unduly prominent within the streetscene.

The application has been supported with various sightline plans showing how much/if any of the penthouses will be visible and these drawings reinforce the above view.

It is not considered that this proposal will set an unwanted precedent, clearly all applications are assessed on their own merits and secondly this site is unique within this part of the High Road due to the overall depth of the site and the side access which makes a development such as this possible.

There is some 60m between the application site and Lopping Hall and therefore it is not considered that the proposal competes with the prominence of the Lopping Hall tower within the roofscape of this part of the High Road.

Neighbour comments have highlighted the 'green roof' not being in keeping with the surroundings, however, this will not be visible as will be set behind the parapet.

### *Neighbouring Amenity*

The proposal will add an additional floor to a five storey building, previously the proposal was not considered to result in a loss of privacy, light or view that would make the proposal unacceptable.

This proposal will add an additional floor, but only increases the height by 1.7m and therefore this is not considered to result in any significant loss of light above that of the previous approval.

In terms of overlooking the proposal will add additional windows, however this is not considered to give rise to any excessive increase in loss of privacy above that of the existing approval. The 6<sup>th</sup> floor windows (unlike the rest of the approved building) will be in part obscured at the lower half by the surrounding parapet and this is considered to remove a degree of perception of overlooking. Additionally, the 6<sup>th</sup> floor is set back from the rear edge of the proposal by 1.8m and this will result in only far reaching views rather than directly downward views.

#### *Other Matters*

##### **Parking:**

As with the existing approval, no parking is provided for the additional dwellings. This was considered acceptable with the 2014 application and the current submission version of the Local Plan promotes car free developments in sustainable locations such as this and this view is therefore reinforced.

##### **Space Standards:**

The proposed penthouse dwellings meet the Nationally Prescribed Space standards for a dwelling of this size and private amenity in the form of a balcony for each dwelling is proposed.

##### **SAC:**

As the proposal results in 2 new dwelling Policies DM 2 and DM 22 of the Local Plan Submission Version, sets out issues that have been identified in relation to the effect of development on the integrity of the Epping Forest Special Area of Conservation (SAC) as a result of increased visitor pressure arising from new residential development within 3km of the SAC. The Council has agreed a financial contribution with regards to visitor numbers of £352 per a unit and the applicant would need to enter into a s106 agreement to provide the appropriate contribution.

As the development is for a 'car-free' development a contribution towards air quality mitigation is not required.

#### **Conclusion:**

Given the above discussion the proposed addition of the 6<sup>th</sup> floor is considered to be acceptable and approval subject to a legal agreement is therefore recommended.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Marie-Claire Tovey  
Direct Line Telephone Number: 01992 564414***

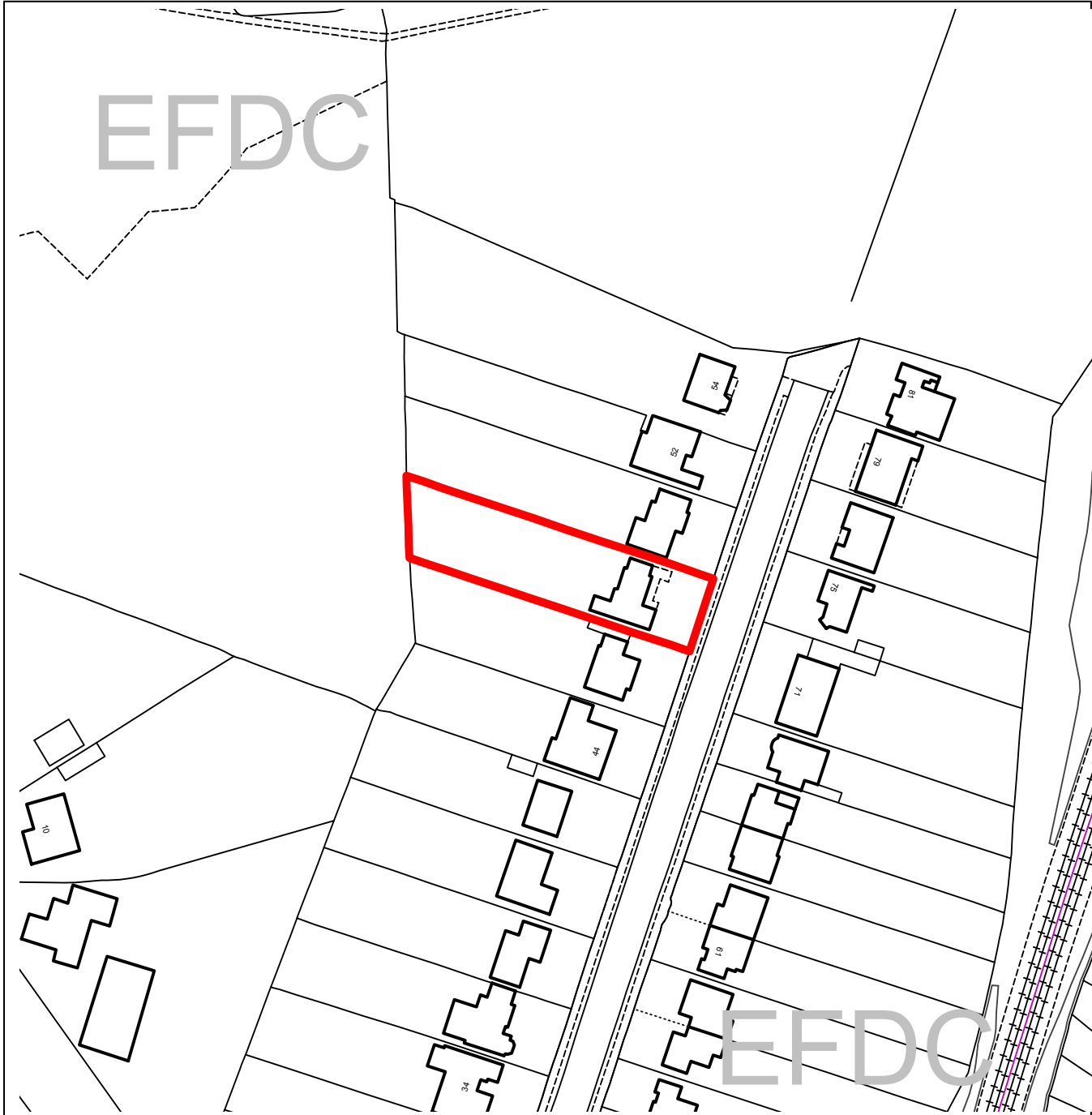
***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***

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# Epping Forest District Council

## Agenda Item Number 3



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Application Number:	EPF/3302/19
Site Name:	48 Stradbroke Grove Buckhurst Hill Essex IG9 5PF
Scale of Plot:	1/1250



**Report Item No: 3**

<b>APPLICATION No:</b>	EPF/0067/19
<b>SITE ADDRESS:</b>	48 Stradbroke Grove Buckhurst Hill Essex IG9 5PF
<b>PARISH:</b>	Buckhurst Hill
<b>WARD:</b>	Buckhurst Hill West
<b>APPLICANT:</b>	Mr Clive Buckley
<b>DESCRIPTION OF PROPOSAL:</b>	Proposed ground floor playroom and bay extensions with first and second floor rear extensions.
<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/NIM\\_websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=619194](http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=619194)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.
- 3 The side dormer windows and the proposed flank windows shall be entirely fitted with obscured glass with a minimum Level 3 obscurity and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (or any other order revoking, further amending or re-enacting that Order) no extensions or roof enlargements generally permitted by virtue of Classes A and B of Part 1 of Schedule 2 to the Order, shall be undertaken without the prior written permission of the Local Planning Authority.
- 5 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

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

### **Description of Site:**

The property is a two-storey detached house. The site is within a built-up area of Buckhurst Hill. Not listed nor in conservation area, but the rear of the property backs on to the Metropolitan Green Belt. PD rights are intact.

The property is on a hill, which leaves 46 Stradbroke Grove on a lower ground level than the host house and 50 Stradbroke Grove on a higher ground level.

### **Description of Proposal:**

The proposal is for a two-storey rear extension with two side dormers. The rear element will project approx. 4.1 metres from the original rear wall including the proposed bay windows. The roof form of the two-storey rear extension will have an eaves height of 2.3 metres to the side abutting No. 46 and an eaves height of 3.2 metres to the side abutting No. 50, with the first-floor rear element contained within the two cat-slide roofs to either side that are at a 47-degree angle. The rear element is set in approx. 1.2 metres from both the neighbouring boundary lines.

The rear dormer window will be positioned centrally within the rear facing hipped end just above the bay windows and will have a hipped roof. The two cat-slide roofs have a side dormer on each side with obscured glass and two new flank windows are proposed on the flank wall that are shown as obscure glazed.

Materials are shown as matching the existing buildings.

The proposal was amended following officer comments, and originally proposed two front dormer windows have now been removed.

### **Relevant Planning History:**

EPF/1363/03 – Single Storey Rear Extension and Rear Dormer Window – Approved

EPF/1059/06 - Reinstatement and refurbishment of fire damaged dwelling and single storey rear extension, first floor rear extension, rear dormer window and new pitched roof over flat roofed side extension – Approved

EPF/0356/11 – Two Storey Side Extension with First Floor Front and Rear Dormer Windows – Approved

EPF/1351/11 – Two Storey Side Extension – Approved

EPF/0068/19 – Prior Approval application for an 8-metre-deep single storey rear extension, height to eaves 2.5 metres and maximum height of 2.5 metres. (Flat roof rear extension with glazed atriums) - Refused

## **Policies Applied:**

### *Adopted Local Plan:*

CP2	Protecting the quality of the rural and built environment
DBE9	Excessive loss of amenity for neighbouring properties
DBE10	Design of Residential Extensions

The above policies form part of the Councils 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

### *NPPF:*

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012 and most recently updated in February 2019. Paragraph 213 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

### *Epping Forest District Local Plan (Submission Version) 2017:*

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Council considers that the Plan is currently at an advanced stage of preparation and has been formally submitted to the Secretary of State for examination and that all the policies are consistent with the NPPF (although this will be tested through the examination). By virtue of this advanced stage of preparation, as well as the Council resolution taken on the 14th December 2017, the LPSV is a material consideration in determining planning applications. Therefore, we need to consider the weight that should be given to each of the relevant policies in the context of the proposed development listed below:

SP1	Presumption in Favour of Sustainable Development
DM9	High Quality Design
DM10	Housing Design and Quality

## **Consultations Carried Out and Summary of Representations Received:**

Number of neighbours Consulted: 4. Two responses received  
Site notice posted: No, not required

46 STRADBROKE GROVE – Objection – Summarised as;

- Overbearing;
- Loss of privacy;
- Less desirable to sell property in the future;
- Noise from construction phase; and
- Structural impact from excavation works

50 STRADBROKE GROVE – Objection - Summarised as;

- Overdevelopment; and
- Overshadowing.

EFDC LAND DRAINAGE – No Objection subject to the requirements set out by the team.

BUCKHURST HILL PARISH COUNCIL – OBJECTION – Due to the bulk and mass of the development, overbearing on neighbouring properties and concerns over potential loss of light.

## **Planning Considerations:**

The main issues to be considered with this application are:

- a) The impact on the character and appearance of the locality; and
- b) The impact on the living conditions of neighbouring occupiers.

### *Character and appearance:*

The proposed two storey rear extension is considered to be an innovative design that has been designed to break up the bulk of the existing building whilst mitigating any excessive harmful impacts to the neighbours living conditions in terms of being overbearing. Also, as it is not visible from the street scene, there would be no impact to the street scene. The proposed two storey rear extension due to its detailed design, scale and height is of an appropriate design within the site context of it being on a higher ground level than No. 46 and sympathetic to the established character of the locality.

In short, there is no consistent architectural form on this street, but there are a mix of styles, and building typologies. So, the proposed works to the rear of the house not visible from the street will cause no harm to the established character of the locality.

### *Living conditions of neighbours:*

The first-floor rear element does not protrude the 45-degree line to the habitable room windows of both Nos 46 & 50 due the 47-degree angle of both the cat-slide roofs that provides a gradual visual gap as you go further up the property. Therefore, there would be no impact to loss of light or excessive overshadowing to both neighbours. Moreover, there would be no excessive additional overlooking that would arise from the works given the relationship of the house to its immediate neighbours. Having regard to that relationship, where houses are broadly in line situated in large wide plots with a fair amount of garden space, the roof works would not appear excessively overbearing and certainly would not impact on outlook from the neighbouring properties.

Based on that assessment, it is concluded the proposal would have a limited impact on neighbouring amenities and it would safeguard the living conditions of the neighbours.

*Other considerations:*

I have considered the points raised by No. 46 with regards to the following points; less desirable to sell property in the future; noise from construction phase; and structural impact from excavation works. These are matters not within Town planning and something the council have no control over.

**Conclusions:**

There is no conflict with councils planning policies as it is of an acceptable design, and any impact to the amenities of the adjoining properties is of limited impact.

For the reasons set out above, it is recommended that permission be granted subject to the conditions outlined in the council's decision notice. It is necessary to removed PD rights for classes A and B so as to retain control over any future developments to this house in the interests of safeguarding its appearance and the living conditions of neighbours.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

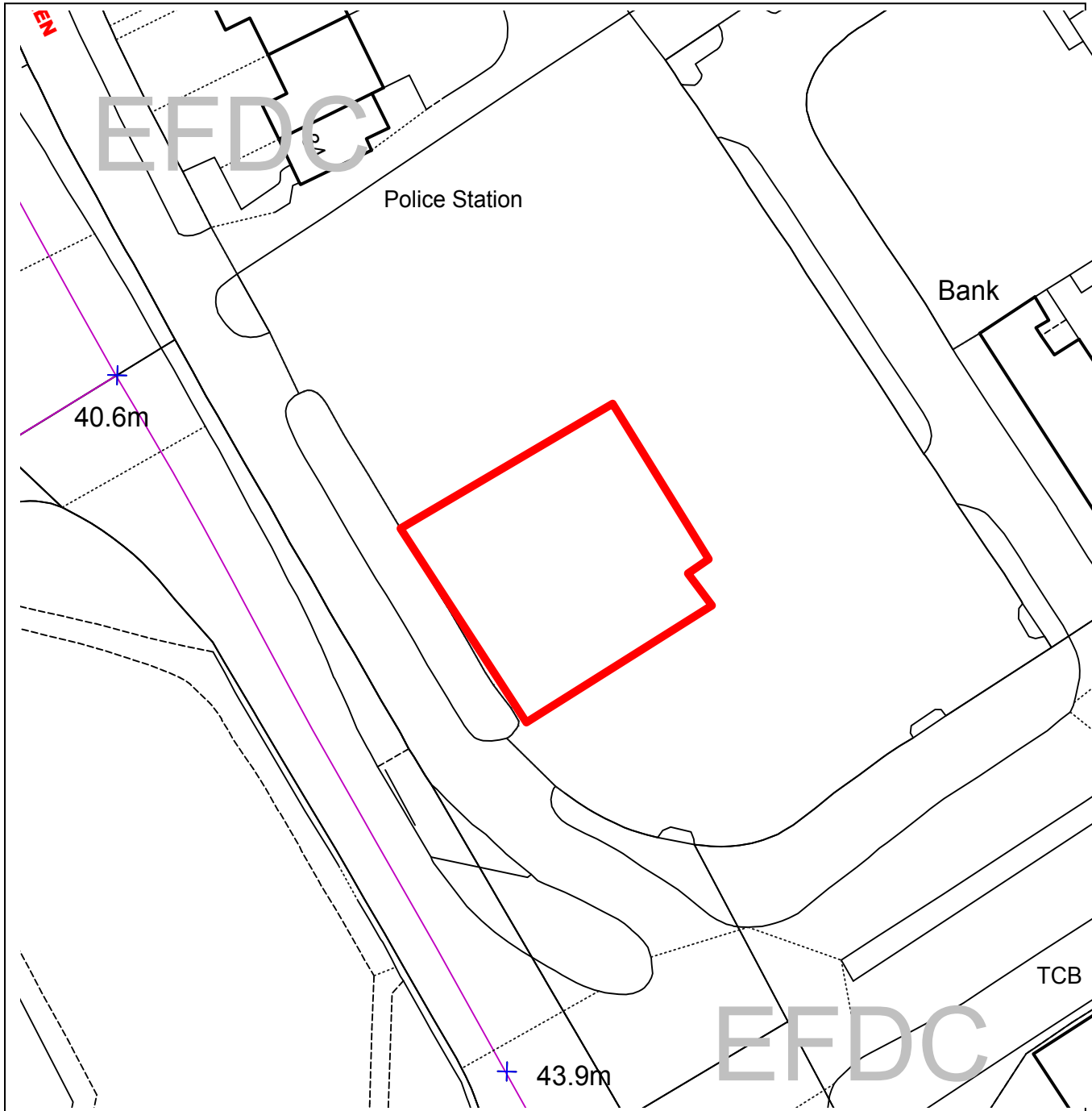
***Planning Application Case Officer: Muhammed Rahman  
Direct Line Telephone Number: 01992 564415***

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



# Epping Forest District Council

## Agenda Item Number 4



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Application Number:	EPF/0119/19
Site Name:	1 Landmark House The Broadway Loughton Essex IG10 2FA
Scale of Plot:	1/500

**Report Item No: 4**

<b>APPLICATION No:</b>	EPF/0119/19
<b>SITE ADDRESS:</b>	1 Landmark House The Broadway Loughton Essex IG10 2FA
<b>PARISH:</b>	Loughton
<b>WARD:</b>	Loughton Broadway
<b>APPLICANT:</b>	Mr Cem Yaman
<b>DESCRIPTION OF PROPOSAL:</b>	Erection of x 4 no. air conditioning motors and x 2 no. cold room motors on rear wall placed at 30cm above floor level.
<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/NIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=619453](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=619453)

**CONDITIONS**

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos:  
Site location plan  
HAB-11-PL01  
HAB-11-PL02  
Technical details of condenser by Guntner dated 2018-11-01  
Technical details of Compact Roundflow Cassette - Active  
Technical details of Optyma Slim Pack refrigerant sheet 1  
Technical details of Optyma Slim Pack refrigerant sheet 2
- 3 The plant hereby permitted use shall not erected or installed until it has been confirmed in writing to the Local Planning Authority, that the rating level of noise (as defined by BS4142:2014) emitted from the plant does not exceed the prevailing background noise level with such measurement, position and assessment being made according to BS4142:2014. The use of the plant hereby permitted must cease during any period that the rating level of noise (as defined by BS4142:2014) emitted from any air conditioning unit or cold room motor exceeds the prevailing background noise level. The measurement prevailing background noise shall be made according to BS4142:2014.

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

### **Description of Site:**

This application relates to commercial units on the ground floor of Landmark House, Debden. The units have been given the address of 30 Barrington Green in relation to street numbering. The units have previously been known as units 2, 3 and 4 Landmark House.

Landmark House has an L-shaped footprint. A northern arm has commercial units numbered 1 to 5. A common entrance to the upper floor residential flats is positioned where the northern arm and an eastern arm conjoin. The eastern arm accommodates a commercial unit which was the subject of an application associated with the Co-op supermarket (EPF/2884/17). The northern arm faces onto Barrington Green and Rectory Lane, these roads running parallel where the proposal is sited. The eastern arm faces onto The Broadway.

The application relates to the mid part of the northern arm, the rear elevation which faces east onto a car park and service yard. There are residential flats on upper storeys of Landmark House.

The commercial unit is within the defined Town Centre of Loughton Broadway on an inset map of the adopted Local Plan. The site is within the Small District Centre of Loughton Broadway as defined in the Submission Version of the Local Plan (Map 5.5 refers).

### **Description of Proposal:**

Erection of x 4 no. air conditioning motors and x 2 no. cold room motors on rear wall placed at 30cm above floor level.

### **Relevant History:**

EPF/2163/13 - Demolition of Public House and garages and replacement with construction of a mixed use development, comprising retail and food and drink units (within classes A1, A3 and A4) at ground floor level and 64 residential units at upper floor levels (first to sixth floors), together with 64 car parking spaces, service yard, access and car parking. – Granted subject to legal agreement 28/03/2014

EPF/1691/18 - Change of use of Units 2, 3 and 4 previously permitted to be used for purposes within Use Class A3 (restaurants and cafes) under planning permission EPF/2163/13 to use for a mix of purposes within Use Class A3 (restaurants and cafes) and Use Class A5 (hot food takeaways). Provision of outside seating area of 8 tables for 32 covers. Installation of extractor ventilation system connected to external acoustic aluminium weather louvres to the rear at ground floor level. – Refused 03/10/2018

EPF/2844/18 - Certificate of lawful use for existing A3 use - installation of extraction equipment to allow A3/A5 use to ground floor unit. – Lawful 29/11/2018



## **Policies Applied:**

### Epping Forest Local Plan (1998) and Alterations (2006):

CP2 – Protecting the quality of the rural and built environment  
DBE9 – Loss of amenity  
RP5A – Adverse Environmental Impacts

### The National Planning Policy Framework

The National Planning Policy Framework (NPPF) has been adopted as national policy since 2012, most recently updated in February 2019. Paragraph 213 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

### Epping Forest District Local Plan (Submission Version) 2017:

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
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- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

In general terms it is considered that the Submission Version of the Plan is at an advanced stage of preparation and the policies are considered to be consistent with the NPPF. As regards unresolved objections, some policies within the Submission Version have more unresolved objections than others. All of these factors have been taken into consideration in arriving at the weight accorded to each of the relevant policies in the context of the proposed development listed below:

SP1 - Presumption in Favour of Sustainable Development  
SP2 E. (i) and F (i) - Spatial Development Strategy 2011-2033  
DM21 A. and B. (i) and (v) - Local Environmental Impacts, Pollution and Land Contamination

## **Consultation Carried Out and Summary of Representations Received**

Number of neighbours consulted: 73

Site notice posted: No, not required

Responses received:

1 LANDMARK HOUSE – Object, would be directly underneath our property, unwanted hot/cold air by our balcony, noise, smell, problems identified in previous petition applies, these types of installations can only be for a bar/pub with associated unruly/anti-social behaviour and late opening hours.

10 LANDMARK HOUSE – Object, could lead to the construction of a bar/pub, noise pollution would be made much worse, would affect residents sleeping in their own homes, diminish the view and entire look of the building, would appear unpleasant and be prominent from most angles, residents with balconies will no longer enjoy sitting and relaxing on them with the noise, smell and ugliness of the units, terror at the prospect of re-sale of apartments if to be set above a bar/pub, pleasant and quiet balconies is the main reason people have chosen to live in Landmark House.

27 LANDMARK HOUSE – Object, public nuisance, excessive noise, unpleasant odours, adverse impact to the external appearance of the property, a loss in market value which is difficult to quantify, searches conducted by our solicitors contained no notice of external additions to the property, flat occupied by a nurse working unsocial hours and therefore in need of sleeping during the day and at night after a long day shift, would be unable to open windows or sit on the balcony, no information regarding fire or other hazards, not clear why proposed.

37 LANDMARK HOUSE – Object, a pub below a residential building would be disruptive, music, chatter, shouting, smoking, outdoor drinking, incredibly damaging to the happiness we feel in our own home, a pub might encourage drug related activity in the area, I do not wish to start feeling less safe in the neighbourhood I live.

40 LANDMARK HOUSE – Object, a pub will cause lots of noise and trouble near our home.

41 LANDMARK HOUSE – Object, visual pollution, air pollution, noise pollution, potential smell associated, the building should have been originally designed for the intended use so that applications like this would not be needed.

LOUGHTON TOWN COUNCIL: The Committee OBJECTED to this application. Whilst appreciating that air conditioning is a requirement for public houses and restaurants, members felt architects would need to look at other solutions that did not affect the residents' enjoyment of their properties and quality of life in relation to noises and smells

### **Main Issues and Considerations:**

This application has some similarities with a recent planning application, EPF/2884/17, which was submitted by the Co-op in relation to a commercial unit at the other arm to the Landmark House building.

The main issue with this application is whether the external plant, the air conditioning motors and cold room motors, would cause noise disturbance to occupiers of residential flats to a degree that would be unreasonable.

The condenser motors would have very limited visual impact. They would be set on a rear wall, a wall onto a car parking area and service yard. The six motors would be arranged neatly in line. The top surface of each motor housing would be some 0.8m above ground level of the service yard.

With regard to noise, specialist advice from Environmental Health comments, based on the extent of technical information submitted to date, is that should planning permission be granted a condition requiring the use of the equipment to cease during any period that it emits noise exceeding the prevailing background noise level. In conjunction with this, they Environmental Health suggest the imposition of a condition requiring the submission and approval of technical details prior to the use of the air conditioning units. This condition is considered to meet the tests for conditions.

In conclusion with regard to noise, it cannot be proven that there would be no disturbance to the residents of the flats at Landmark House, but the conditions proposed by Environmental Health will safeguard their living conditions. Indeed, the availability of air conditioning within the unit will facilitate and encourage the restaurant to operate with its doors shut, limiting the escape of normal noise associated with the use. That arrangement would be of some benefit to the living conditions of flats adjacent to the premises.

Furthermore, in broader terms, including the history and setting of the site, it is considered that refusal of the application could not be adequately justified. The proposal is relatively small-scale in nature and in the light of Government advice to ensure the vitality and viability of centres such as Debden, it is considered that approval would be reasonable.

Planning permission has been granted for a mixed-use development - food and drink units at ground floor level and residential units at upper floor levels – by planning permission EPF/2163/13. It is considered reasonable to expect that purchasers of the flats would have been aware that the residential properties were in a mixed commercial and residential setting. Buses pass the site and commuters going to the underground station contribute to activity outside the site. It is understood that a number of business premises, in a more general vicinity, along The Broadway are open from 6am. Whilst the proposal would generate some noise, there is some background noise at this locality.

Members are advised an Inspector commented in a recent appeal decision for a nearby unit (APP/J1535/W/18/3203201) that Landmark House is sited at the busy junction of Rectory Lane and The Broadway. The Inspector described the prevailing character of the vicinity as a bustling local centre. The site is in a commercial centre as shown in the Submission Version of the Local Plan.

Paragraph 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. This is considered to be the case in this instance.

### **Conclusion:**

Given the scale of the proposal, that such a proposal would be expected in connection with a restaurant use and that the proposal is not in a wholly residential setting refusal of the proposal could not be reasonably and adequately supported. It is recommended that planning permission be granted subject to a condition regarding noise as recommended by Environmental Health.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:***

***Planning Application Case Officer: Jonathan Doe  
Direct Line Telephone Number: 01992 564103***

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