

**Delegated Report
404 Fencepiece Road, Chigwell
EPF/2710/22**

Site and Surroundings

The site comprises of a detached dwelling within a built-up area of Chigwell. It is not within a conservation area nor is it listed.

Proposal

The proposal is for the demolition of existing dwelling and construction of 8 new apartments (Revised Scheme to EPF/2761/21).

Relevant Planning History

EPF/1051/19 - Application for Outline Planning Permission for demolition of existing dwelling and the erection of a building comprising x 10 no. self-contained apartments with associated car parking and amenities - Refused

EPF/2351/19 - Outline application for demolition of existing dwelling and erection of a building comprising of x 8 no. self-contained apartments with associated car parking & amenities. (Revised application to EPF/1051/19) – Refused

EPF/2761/21 - Demolition of existing dwelling and construction of 8 new apartments in 2 blocks with private access road, amenity and off streetcar parking - Refused

Development Plan Context

Local Plan and Alterations 1998 & 2006 (LP)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

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

CP2	Protecting the Quality of the Rural and Built Environment
CP7	Urban Form and Quality
H2A	Previously Developed Land
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL10	Adequacy of Provision for Landscape Retention
LL11	Landscaping Schemes
ST4	Road Safety
ST6	Vehicle Parking

National Planning Policy Framework 2021 (Framework)

The Framework is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Paragraphs 126 & 130
 Paragraph 180

Epping Forest District Local Plan Submission Version 2017 (LPSV)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

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).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2nd August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as Main Modifications, to the Epping Forest District Local Plan Submission Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional Main Modifications, the **highest weight** should be afforded to LPSV policies in accordance with paragraph 48 of Framework. The following policies below are relevant to the determination of this application;

SP2	Spatial Development Strategy 2011-2033
H1	Housing Mix and Accommodation Types
T1	Sustainable Transport Choices
DM2	Epping Forest SAC and the Lee Valley SPA
DM3	Landscape Character, Ancient Landscapes and Geodiversity
DM5	Green and Blue Infrastructure
DM9	High Quality Design
DM10	Housing Design and Quality
DM15	Managing and Reducing Flood Risk
DM16	Sustainable Drainage Systems
DM19	Sustainable Water Use
DM21	Local Environmental Impacts, Pollution and Land Contamination
DM22	Air Quality

Summary of Representations

Number of neighbours Consulted: 16. 1 response(s) received
Site notice posted: Yes.

410 FENCEPIECE ROAD – Comments on non-planning merits

CHIGWELL PARISH COUNCIL – OBJECTION - Overdevelopment of the site, lack of amenity space, concerns over parking.

Planning Considerations

The main issues for consideration in this case are whether the previous reasons for refusal have been overcome. The reasons for refusal are:

1. The proposal, by reason of its scale, bulk, massing and design, fails to relate positively to the locality, would appear as a harmful overdevelopment of the site, and would result in a greater urbanisation of the area, causing harm to the character and appearance of the locality which is predominantly suburban in nature. The proposal is, therefore, contrary to policies CP2, CP7 and DBE1 of the adopted Local Plan 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and Paragraphs 126 and 130 of the NPPF 2021.
2. By reason of the siting, scale, bulk and massing of the proposed development, it would appear highly prominent and overbearing when viewed from the rear elevation and garden area of 406 Fencepiece Road. Furthermore, due to the proposed intensification of residential activity from the site, it would likely result in excessive noise and disturbance to neighbouring amenities, including that of future users of the proposed dwellings. The proposal also fails to provide any functional external amenity space for future users. Consequently, the proposal does not safeguard the living conditions of neighbouring properties nor provide a good level of accommodation for future users, contrary to Policies DBE8 & DBE9 of the adopted Local Plan 1998 & 2006, Policy DM9 of the LPSV 2017, and Paragraph 130 (f) of the NPPF 2021.
3. It has not been sufficiently demonstrated that the retention and protection of trees (including veteran trees), will be successfully implemented in accordance with relevant guidance and best practice, contrary to Policy LL10 of the adopted Local Plan 1998 & 2006, Policy DM5 of the Local Plan Submission Version 2017, and Paragraph 180 of the NPPF 2021.
4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the

Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1 and CP6 of the adopted Local Plan 1998 & 2006, Policies DM2 and DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.

Reason for Refusal 1 - Character and Appearance

Officers note the altered design, however much of the previous concerns still remains. The proposal differs from that of the locality, in that the locality consist of traditional building typologies with similar architectural characteristics, form and plot sizes. Therefore, the proposed development in terms of its form, scale and design will compete with that of the established character and appearance of the locality and appear as harmful overdevelopment of the site.

New buildings need to relate positively to the locality by complementing and enhancing the character and appearance of the area. Having regard to the comments above, this is can be achieved by having regard to the distinctive local architectural styles, detailing and materials, building heights and the form, scale and massing prevailing around the site.

In light of the above, the scale, bulk and massing of the proposed dwelling including the design fails to relate positively to the locality. Consequently, the proposal is contrary to policies CP2, CP7 and DBE1 of the LP, policy DM9 of the LPSV and paragraphs 126 and 130 of the Framework.

Thus, this reason for refusal has not been overcome.

Reason for Refusal 2 - Living Conditions of neighbours & Standard of Accommodation

The proposal is of still of a substantial size and despite the separation distance from the common boundary, due to its overall scale, bulk and massing would appear highly prominent and overbearing when viewed from the rear glazing and garden area of 406 Fencepiece Road.

Too add, the proposal would result in an increase in the intensification of the site in terms of noise and general disturbance from comings and goings to and from the site compared with the existing dwelling that it would likely to result in excessive noise and disturbance to residents of neighbouring dwellings.

Therefore, the proposal fails to safeguard the living conditions of neighbouring properties, contrary to Policies CP7 & DBE9 of the LP, Policy DM9 of the LPSV and Paragraph 130 (f) of the Framework.

The proposed development would meet/exceed the National Described Space Standards as set out in Policy DM10, and the units are dual aspect so would receive adequate lighting and with a reasonable outlook. A large communal garden would be provided for the all the units, so it is considered that a good level of accommodation for future users of the dwellings would be provided. It is noted that the layout has also been alters to ensure there are no bathrooms/kitchens on top of bedrooms etc.

Accordingly, this reason for refusal has been partially overcome.

Reason for Refusal 3 - Trees and Landscaping

The Councils Tree Officer has raised an objection to the proposal as it has failed to demonstrate that there would be no detrimental impact to the exiting trees on site, and also raised concerns regarding the proposed landscaping.

Officers note that the previous Tree report has been submitted which relates to the recent refused scheme. As such, it is not relevant to this proposal, hence the objection raised by the Tree Officer.

Thus, this reason for refusal has not been overcome.

Reason for Refusal 4 - EFSAC

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination with other Plans and Projects, including with development proposed within the Epping Forest Local Plan Submission Version (LPSV).

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concluded that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are effects of urbanisation with a particular focus on disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development). Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of elements of the methodology underpinning the appropriate assessment of the LPSV, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently, the Council, as Competent Authority under the Habitats Regulations, is satisfied that the Pathways of Impact to be assessed in relation to this application pertinent to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

- 1) Recreation activities arising from new residents (recreational pressures); and
- 2) Atmospheric pollution as a result of increased traffic using roads through the EFSAC.

Stage 1: Screening Assessment

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

- 1) The site lies within the Zone of Influence as identified in the Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' (the Interim Approach) adopted by the Council on 18 October 2018 as a material consideration in the determination of planning applications. Consequently, the development would result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.
- 2) The development has the potential to result in a net increase in traffic using roads through the EFSAC.

Consequently, the application proposal would result in a likely significant effect on the integrity of the EFSAC in relation to both the recreational pressures and atmospheric pollution Pathways of Impact.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to both recreational pressures and atmospheric pollution.

Stage 2: 'Appropriate Assessment'

Recreational Pressures

The application proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the Interim Approach, has provided a strategic, district wide approach to mitigating recreational pressures on the EFSAC through the securing of financial contributions for access management schemes and monitoring proposals. Consequently, this application can be assessed within the context of the Interim Approach. The applicant has agreed to make a financial contribution in accordance with the Interim Approach. . Consequently, the Council is satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation.

Atmospheric Pollution

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of an Interim Air Pollution Mitigation Strategy (IAPMS), has provided a strategic, district wide approach to mitigating air quality impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the IAPMS. The applicant has agreed to make a financial contribution in accordance with the IAPMS. In addition, the application will be subject to planning conditions to secure measures as identified in the IAPMS. Consequently, the Council is satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions.

Notwithstanding the above, in the absence of a completed s106, the Council in this instance are unable to secure the required mitigation measures.

Thus, this reason for refusal has not been overcome.

Other Considerations

The Highways officer has raised no objections and the proposed parking and cycle provision is acceptable, given the site is within a sustainable location, some 0.6m from Grange Hill Underground Station, in accordance with Policy T1 of the LPSV.

Conclusion

The proposal has failed to overcome the previous reasons for refusal. As such for the reasons set out above having regard to all the matters raised, it is recommended that planning permission be refused for the reasons below;

1. The proposal, by reason of its scale, bulk, massing and design, fails to relate positively to the locality, would appear as a harmful overdevelopment of the site, and would result in a greater urbanisation of the area, causing harm to the character and appearance of the locality which is predominantly suburban in nature. The proposal is, therefore, contrary to policies CP2, CP7 and DBE1 of the adopted Local Plan 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and Paragraphs 126 and 130 of the NPPF 2021.
2. By reason of the siting, scale, bulk and massing of the proposed development, it would appear highly prominent and overbearing when viewed from the rear elevation and garden area of 406 Fencepiece Road. Furthermore, due to the proposed intensification of residential activity from the site, it would likely result in excessive

noise and disturbance to neighbouring amenities. Consequently, the proposal does not safeguard the living conditions of neighbouring properties contrary to Policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, Policy DM9 of the LPSV 2017, and Paragraph 130 (f) of the NPPF 2021.

3. It has not been sufficiently demonstrated that the retention and protection of trees (including veteran trees), will be successfully implemented in accordance with relevant guidance and best practice, contrary to Policy LL10 of the adopted Local Plan 1998 & 2006, Policy DM5 of the Local Plan Submission Version 2017, and Paragraph 180 of the NPPF 2021.
4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1 and CP6 of the adopted Local Plan 1998 & 2006, Policies DM2 and DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.

Plan Numbers: PL-5861_02, PL-5861_11, 841/22/001 Rev A, 841/22/002 Rev A, 841/22/003 Rev A, and 841/22/004 Rev A.