



Alpha Planning Ltd.

## Appeal Statement

Appeal against the decision of  
Epping Forest District Council to  
refuse planning permission for  
Erection of a third floor to provide  
two flats involving the raising of the  
existing parapet of the building. (LPA  
Reference EPF/0418/21)

At:

13-17 High Beech Road, Loughton,  
Essex IG10 4BN

On behalf of:

London and City Property  
Investments Limited

APL Ref: APL/00290/RAI

September 2021

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## 1.0 Introduction

- 1.1 This Statement of Case is provided in support of an appeal by London and City Property Investments Limited against the refusal of planning permission by Epping Forest District Council for the erection of a third floor to provide two flats at 13-17 High Beech Road, Loughton, Essex IG10 4BN.
- 1.2 In line with the Planning Inspectorate's Procedural Guidance this Statement of Case responds to the reason for refusal set out by the local planning authority and focuses on the difference between the two parties.

## 2.0 Site and Surroundings

- 2.1 The site comprises a three-storey office building located on the eastern side of High Beach Road (see photograph below and further photographs in Appendix A), approximately 150m from the junction with the High Road. The location is just to the north of the defined Loughton Town Centre.



**Photograph 1:** View of appeal site from the south



- 2.2 The building is currently used for office purposes, with offices on part of the ground floor (the other part being car parking with a central access through to parking at the rear), as well as occupying fully the first and second floor. There are two parking spaces to the front of the building and seven spaces to the rear, with further parking under the building itself.
- 2.3 To the south of the site is No. 9-11 High Beech Road, a three storey residential building, with the second floor being contained within the roof space. Immediately to the east is a gated car park that is accessed from Smarts Lane (between nos. 18 and 18A), together with the back gardens of the modern residential properties in Smarts Lane. To the north is a terrace of residential properties (nos. 19-25 High Beech Road) which projects further back than the application building by approximately 6m, with gardens to the rear. On the western side of the road, opposite the site, are further residential properties, being a mixture of 1920s two storey semi-detached properties directly opposite the site and 1960s three storey flat roofed dwellings to the south of these.

### **3.0 Relevant Planning History**

- 3.1 Planning permission was granted in 1975 for the erection of a three storey building to comprise ground floor parking accommodation, offices on the ground and first floor and three flats on the second floor (ref: EPF/0825/75).
- 3.2 A subsequent planning application for the erection of a three storey office building with car parking at ground level was initially refused but allowed on appeal in 1976 (ref: EPF/1238/75).
- 3.3 A further application was granted planning permission for the erection of the three storey office building in 1977 (ref: EPF/0206/77).
- 3.4 Since that time there have been two applications that are relevant, namely:
- Planning permission was granted in 2014 for the conversion and change of use of the existing second floor office premises to residential use to form 5 no. 1 bedroom flats (ref: EPF/2383/13).
  - In 2020 the Council confirmed that Prior Approval was required for the proposed change of use from B1 (offices) to C3 (dwellinghouse). The prior approval, involving the conversion of the first floor office space to x4 no. self-contained 1 bedroom flats & x1 no. studio flat, was granted (ref: EPF/1396/20).
- 3.5 Prior to the submission of the application that forms the subject of this appeal, there were pre-application discussions between the appellant and Council. A pre-application request, including

photographs, location plan, block plan, together with existing and proposed floor plans and elevations was submitted to the Council dated 6 November 2020 (attached as Appendix B). The pre-application scheme differed from the appeal proposal in that it included a rear roof terrace with large areas of glazing (bi-fold doors) opening directly onto the roof terrace.

3.6 The Council's formal response was provided on 14 December 2020, also included within Appendix B, and identified the main issues for consideration as:

- Appropriateness of the development in relation to Epping's Housing Supply;
- Impact on the amenity of surrounding residential properties;
- Form of accommodation; and
- Impact on the Epping Forest Special Area of Conservation.

3.7 On the appropriateness of development, the pre-application advice recognised that the effective re-use of land to increase the housing stock, was in accordance with the National Planning Policy Framework (NPPF) and policies CP1, CP3, H3A, DBE1 and DBE3 of the Local Plan. The pre-application advice noted that the site was not put forward as a strategic site available for additional residential dwellings within the emerging Epping Forest District Local Plan (2011-2033). Consequently, the officer in the pre-application advice considered that the proposal would have an unacceptable impact in terms of intensification and pressure on local services. This was addressed in the Planning Statement submitted with the planning application which recognised that the proposal was a minor development, proposing the delivery of only two additional dwellings, clearly not a development that would be promoted as a strategic site, nor would it be appropriate to seek contributions for infrastructure, nor would the proposal result in unacceptable impacts in terms of intensification and pressure on local services.

3.8 In terms of neighbouring amenity, the pre-application advice indicated that the rear terrace balcony would result in perceived overlooking and an intrusive loss of privacy to adjoining and nearby rear gardens of houses on Smarts Lane contrary to policy DBE9 of the Local Plan. This aspect was specifically addressed in the subsequent planning application, with the scheme amended to reflect the concerns expressed, namely the removal of the rear terrace and alterations to the proposed fenestration in the third floor, with obscure glazing and non-opening windows below 1.7m to non-habitable rooms, For windows to the four bedrooms these were altered to create projecting windows, whereby the window would be set out from the main habitable area to reduce the scope for overlooking. That detail was shown in drawing 572-21- D01 that is referenced in the decision notice.



- 3.9 The additional drawings being submitted with this application also show that direct overlooking of the properties in Smarts Lane will not occur, with the design preventing direct views to first floor habitable rooms, let alone the ground floor or gardens. In fact, Section D-D of drawing 572/21-07, clearly shows that actual (rather than perceived) overlooking of properties in Smarts Lane will occur from the adjacent building, 9-11 High Beech Road, which was only recently granted planning permission to convert to eight residential dwellings (EPFC ref: EPF/2449/20 approved on 6 April 2021).
- 3.10 With regard to the form of accommodation, the pre-application advice records that *“the internal form of accommodation is acceptable with each room having sufficient daylight and outlook.”* With regard to the Epping Forest Special Area of Control (SAC), at the time of the pre-application advice the interim advice in relation to the SAC had not been formally adopted by the Council. However, on the 8 February 2021 Full Council confirmed the adoption of the ‘Interim Air Pollution Mitigation Strategy’ (APMS December 2020). The APMS alongside the interim strategy for managing recreational pressures (adopted October 2018), now form the combined approach for mitigating the effects of new development on air quality and recreational pressure impacts on the SAC), having been subject to a Habitat’s Regulation Assessment.
- 3.11 The application subject of this appeal was submitted in March 2021 and was refused at the meeting of the Area Planning Sub-Committee – South on 14<sup>th</sup> July 2021.

## **4.0 Relevant Planning Policy**

- 4.1 The general thrust of national, regional and local planning policy is to secure sustainable patterns of development and the re-use of previously developed urban land. This objective is a common thread running through Government guidance, the National Planning Policy Framework and Epping Forest’s Local Plan, which all encourage development that will contribute towards sustainable communities.

### **National Planning Policy Framework**

- 4.2 The revised National Planning Policy Framework (NPPF), published in July 2021, sets out the Government’s planning policies for England.
- 4.3 The NPPF provides guidance for local planning authorities both in drawing up plans and in determining applications. The NPPF states that decision-makers “should seek to approve



applications for sustainable development where possible” (paragraph 38). Sustainable development is considered in terms of economic, environmental and social objectives.

- 4.4 The NPPF also records that it is important that a sufficient amount and variety of land should come forward where it is needed in order to support the Government’s objective of significantly boosting the supply of homes (paragraph 60).
- 4.5 The NPPF does not change the statutory status of the development plan as the starting point for decision making.
- 4.6 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan in force for the area comprises the Epping Forest Local Plan.

### **Epping Forest District Local Plan**

- 4.7 The Epping Forest District Local Plan was first adopted in 1998 and benefited from alterations in 2006 (published February 2008). Policies relevant to the application are as follows:
- Policy CP1: Achieving Sustainable Development Objectives – this policy establishes the LPA’s strategy for achieving sustainable forms of development;
  - Policy CP2: Protecting the Quality of the Rural and Built Environment – in relation to development, the policy considers the protection and improvement of the built environment through safeguarding and enhancing its setting, character and townscape;
  - Policy CP3: New Development – establishes criteria for considering planning applications, including the need for development to be accessible, to be accommodated within existing or planned infrastructure and for the scale to be consistent with sustainability principles;
  - Policy CP6: Achieving Sustainable Urban Development Patterns – seeks to accommodate development in a sustainable manner which counters trends to more dispersed patterns of living, by amongst other things concentrating housing development within urban areas by maximising the use of spare capacity in terms of land and buildings;
  - Policy H2A: Previously Developed Land – encourages the reuse of previously developed land, with the Council seeking to deliver 70% of all new housing on such land;
  - Policy H3A: Housing Density – requires new developments to achieve a net site density of 30-50 dwellings per hectare, whilst taking into account constraints such as the shape of the site, surroundings, character and the impact upon the amenities of adjoining residential properties;



- Policy H4A: Dwelling Mix – encourages the provision of a range of dwellings, including an appropriate proportion of smaller dwellings;
- Policy NC1: SPAs, SACs and SSSIs – recognises that the Council will comply with the UK's international obligations with regard to these areas;
- Policy DBE1: Design of New Buildings – requires new buildings to respect, inter alia, their setting in terms of scale and proportion and the relationship with the street scene;
- Policy DBE2: Effect on Neighbouring Properties – notes that planning permission will not be granted for new buildings which have a detrimental effect upon surrounding properties;
- Policy DBE3: Design in Urban Areas – relates to the provision of space around new developments and its function;
- Policy BE8: Private Amenity Space – notes that private amenity space for new residential developments should enable reasonable use and be directly adjacent to the relevant building;
- Policy DBE9: Loss of Amenity – as regards the proposal, this policy requires that extensions do not lead to an excessive loss of amenity in relation to visual impact, loss of privacy (overlooking) or loss of light;
- Policy ST1: Location of Development – states that new development will be located in places that encourage walking, cycling and the use of public transport, with housing principally located in existing urban areas, making best use of land which is highly accessible to public transport or close to services and employment opportunities;
- Policy ST2: Accessibility of Development – requires new development to be designed to provide safe, pleasant and convenient access for pedestrians and cyclists;
- Policy ST4: Road Safety – notes that the Council will grant permission for new development only when it is: well related to the road hierarchy; unlikely to lead to an excessive degree of traffic congestion; will not be detrimental to highway safety; and is unlikely to result in excessive adverse effects to the character of the area.
- Policy ST6: Vehicle Parking – expects new development to provide on-site parking in accordance with adopted standards.

4.8 In December 2017, Full Council resolved to consider the Epping Forest District Local Plan (2011-2033) (Submission Version) 2017 as a material consideration in the determination of planning applications and that it be given appropriate weight in accordance with paragraph 216 of the NPPF 2012. Hearing sessions concluded on 11 June 2019, following which the





Council has commenced consultation upon Main Modifications to the Epping Forest District Local Plan. Relevant policies of the submission Local Plan are as follows:

- Policy DM9: High Quality Design – considers the quality of design within the District and states that development must relate positively to the surrounding context with regard to height, form, scale and massing and detailing and materials. The Policy also requires that development provide adequate light and privacy to adjoining properties without impinging significantly upon outlook or being unduly visually intrusive;
- Policy DM10: Housing Design and Quality – requires all new housing development to meet the minimum internal space standards set out in the Nationally Described Space Standards; and
- Policy DM22: Air Quality – seeks to protect the District from the impacts of air pollution and provide appropriate mitigation for Epping Forest commensurate with the scale of development.

4.9 The Appellant has undertaken to describe the entire policy context relevant to the development, however, the substance of the appeal relates solely to the visual amenity of surrounding residential properties as expressed in the reason for refusal. Policies relevant to the sole reason for refusal are, therefore, Policies H3A and DBE9 of the Epping Forest District Local Plan and Policy DM9 of the Submission Version of the draft local plan.

## 5.0 Reason for Refusal

### Officer's report

5.1 The application was recommended for approval by the officer, with the officer's report to Committee identifying the following as the main issues for consideration:

- The principle of residential development;
- Design and siting;
- The impact upon the amenities of surrounding residents;
- The form of accommodation;
- The provision of parking and highway safety; and
- The relationship with the Special Area of Conservation.

5.2 In terms of the principle of residential development there was no dispute that the proposed additional residential units are appropriate, being an efficient and effective use of land in a

highly sustainable location, addressing a shortfall in housing need in the District, and according with policies CP1 and H3A of the Local Plan and the NPPF. Members even commented at the committee meeting that residential development of the site was appropriate, with the commercial use being an anomaly.

- 5.3 With regard to the design and siting, the issues raised by this section of the officer's report are pertinent since the reason for refusal mentions 'height and bulk'. The officer's report recorded that *"the proposed recessed aspect of the development when combined with the limited scale, form and projection above the parapet along with the use of cedar wood materials would reduce the visibility of the development from public viewpoints and the streetscape."* In terms of the design and form of the development, the Committee report stated that, *"it is not considered that, in terms of design and form, the additional increase in height would compromise the established spatial pattern of development or be intrusive or a harmful feature to the character and appearance of the properties in High Beech Road and the surrounding area and complies satisfactorily with policies DBE3 and DBE10 of the adopted Local Plan."*
- 5.4 The third main issue addressed in the Committee report related to neighbouring amenity and addressed the potential for overlooking and loss of privacy to adjoining properties. The officer's report noted the amendments that had occurred following the pre-application submission, namely with the obscure glazing to non-habitable rooms (and non-opening windows below 1.7m) as well as the recessed bay windows and the removal of the rear terrace. Thus, the report concluded that the alterations would mean that *"the opportunity for direct overlooking, and even perceived overlooking is severely constrained so as not to result in any demonstrable harm to the living conditions of neighbouring properties and accords with the requirements of policy DBE9 of the adopted Local Plan."*
- 5.5 The form of accommodation was also considered acceptable, noting that the gross internal area of each of the two-bedroom flats complied with the nationally described space standards set out in the Government's Technical Housing Standards as well as policy DM10 of the Local Plan.
- 5.6 With regard to parking and highway safety the officer's report recorded that the Highway Authority (Essex County Council) had not raised any objection to the proposal and considered it to be acceptable subject to planning conditions, consequently the proposal accorded with policies ST4 and ST6 of the Local Plan.

- 5.7 Finally, the officer's report referred to the impact upon the Epping Forest SAC, noting that there was a requirement to assess whether the development would have an adverse effect on the integrity of the SAC. In adopting its 'Interim Air Pollution Mitigation Strategy' a comprehensive Habitats Regulations Assessment was undertaken. Based on this and advice from Natural England, the Council has proposed mitigation measures both in relation to future air quality and also pressure on public recreation.
- 5.8 The officer's report notes that the application has been screened in relation to both the recreational pressures and atmospheric pollution pathways and concludes that: "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." The conclusion in relation to recreation is that *"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 obligation."* The same observation is made in relation to atmospheric pollution, recognising subject to the satisfactory completion of a Section 106 planning obligation the Council is satisfied that the proposal would not have an adverse impact on the SAC.
- 5.9 The officer's report concluded that the site was a very sustainable location, sufficiently maintained the spatial pattern of development and *"would not result in any amenity implications to neighbour properties."* However, Members of the Committee resolved to overturn the recommendation. The application was refused on the 14<sup>th</sup> July 2021 for the following reason:
- "The proposed development, by reason of its height and bulk, would result in a loss of visual amenity to residents of surrounding properties, including those in Smarts Lane, contrary to Policy DBE9 of the adopted Local Plan and Alterations, Policy DM9 of the Submission Version Local Plan (2017), and the NPPF."*
- 5.10 There is, therefore, only one reason for refusal relating to the perceived visual harm that would arise for the residents of surrounding residential properties.
- 5.11 It is considered that the reason for refusal is not overly precise and, therefore, it is not held to be clear as to whether the harm to visual amenity that is identified therein relates to the internal or external living environment of adjacent properties. In view of the lack of specificity, it is interpreted in terms of the whole.

- 5.12 The detailed design is not referenced as a source of perceived harm and, therefore, the visual implications that have been identified are not considered to extend to the inherent appearance of the proposal.
- 5.13 The subsequent section shall consider the height and bulk of the development in respect of the visual amenities of neighbouring properties.

### **Harm caused to the visual amenity of surrounding residents**

- 5.14 It is, however, important to precisely understand the harm that was identified by the Committee. The adverse amenity impact that substantiates the reason for refusal relates only to the visual amenity of surrounding residents. There is no harm identified as it relates to the character and appearance of the wider area itself. The test is, therefore, whether or not local residents would suffer significant visual harm from the proposal.
- 5.15 The existing building comprises a three-storey development and benefits from being situated within an eclectic context of building design. In addition to the appeal site itself, a row of dwellings immediately to the south-west have flat roof forms, albeit without the faux-mansard appearance adorning the upper floors. With the exception of the adjacent site to the south, which has a mansard design, other buildings within this section of High Beech Road comprise more traditionally designed dwellinghouses.
- 5.16 By virtue of the design of the original building, it has been possible to provide part of the proposal within the mass of the structure as it presently exists. As the proposal would be regarded in situ, only the recessed element would appear visually different from the prevailing building. The additional floor would be set back 1.5m from the front parapet wall (see extract below) and rise only 1.6m above the height of the parapet representing an increase of approximately 15% in the height of the building (this is not taking into account the existing plant room and plant that currently sit on top of the existing mansard and are visible from High Beech Road and also from Smarts Lane to the rear – shown in Appendix A). The setback of the façade from the parapet reduces any impact on the street scene and properties on the opposite side of High Beech Road. The impact is lessened further by the current design of the building, which includes a projecting bay at first and second floor level, with the façade of the new extension being 2.5m back from the forwardmost part of the property.

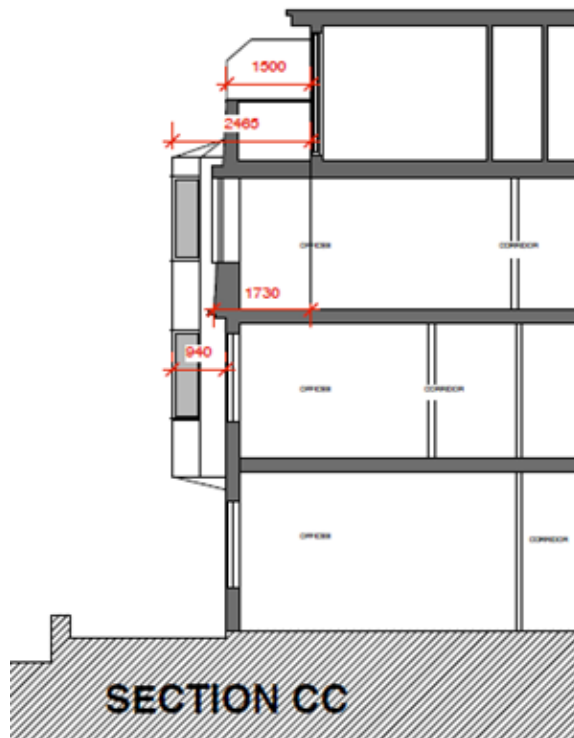


Figure 1: Annotated s from drawing 572/21-07

5.17 With regard to properties to the rear in Smarts Lane, the additional floor would be set back from the parapet by approximately 1m and the design of the projecting window to habitable rooms, together with the position of the parapet wall, would mean that there are limited opportunities for overlooking and loss of privacy (see extract below), whilst the additional increase in height would have an insignificant impact upon the amenities of occupiers of properties in Smarts Lane, It is considered that the proposal comprises a proportionate addition in terms of height.

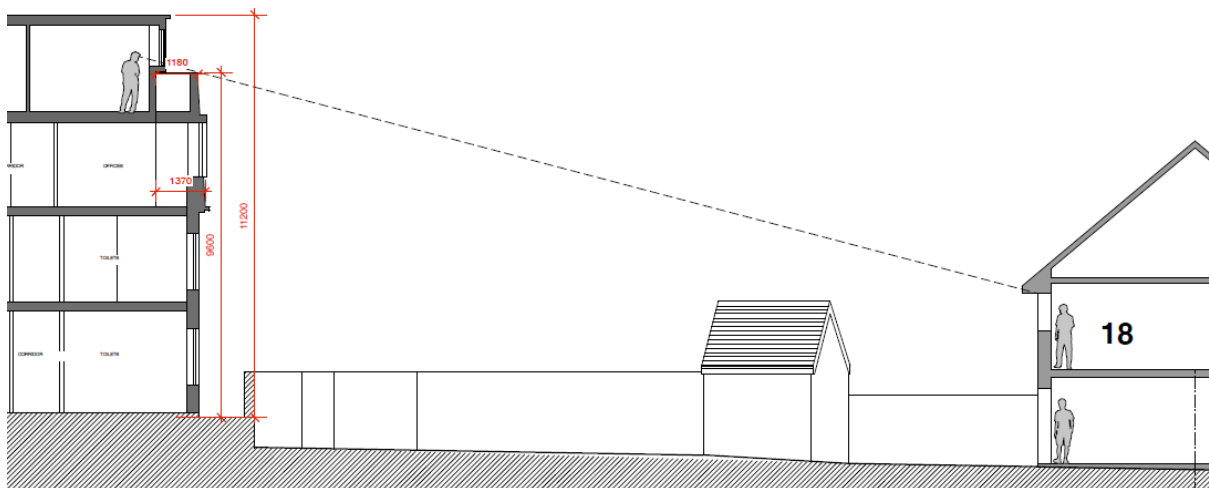


Figure 2: Annotated section from drawing 572/21-07 (relationship with Smarts Lane)

- 5.18 In addition to height, bulk is additionally referenced as being a source of harm to neighbouring visual amenity. To that, and in addition to the above-considered acceptability of the proposed height, it is first noted that the development would be recessed from each of the elevations of the existing building. The scheme would, therefore, comprise a demonstrably subordinate addition.
- 5.19 In terms of design, the proposal would, therefore, be setback from all elevations and would benefit from a sympathetic degree of additional height when considered against the proportions of the existing building. On that basis, the Appellant disagrees with the assessment of the LPA that the proposal would result in a degree of height and bulk that would be significantly detrimental to the amenities of surrounding properties.
- 5.20 In determining the impact upon surrounding residential properties, the spatial relationship must first be established. Whilst the ambiguity of the reason for refusal implies that all surrounding residential properties would be detrimentally impacted, Smarts Lane, which is located to the rear of the appeal site to the east, is explicitly referenced within the stated reason for refusal. This, therefore, provides an appropriate starting point for the assessment.
- 5.21 The closest dwellinghouse to the rear within Smarts Lane (No. 18) is separated from the rear of the existing building by approximately 23m. Towards the northern-end of the site, this extends to approximately 27m (No. 20 Smarts Lane). No distance of separation standards have been identified within either the adopted or the draft local plans. That notwithstanding, it is necessary to reiterate that the development would be situated entirely within the footprint of the existing building. Not only would there be no encroachment, but the proposal would also be recessed from both the principal and rear elevations (as well as the north and east). In addition to being subordinate to the appearance of the resultant building, the proposal would also comprise a visually subordinate element when viewed from outside of the site. On that basis, it is not considered that the development would materially alter the shared relationship between the appeal site and those properties to the rear within Smarts Lane.
- 5.22 Properties situated opposite the appeal site within High Beech Road (west) are closer than those to the rear (approximately 21m), but this is to be anticipated as this is a front-to-front relationship. The recess at the front of the development is slightly greater than it is to the rear, however, the previously described subordination and sympathetic proportions of the development are considered to remain the most significant element in considering the visual implications for these adjacent residential occupiers. As has been set out in relation to



Smarts Lane, none of the properties within High Beech Road are considered to be materially harmed by the proposal in terms of visual amenity.

- 5.23 One common implication in regard to visual intrusion relates to views. Given the overall proximity of buildings within the area, together with a lack of dramatic level changes, there would be no intrusion upon the achievable views from surrounding properties. The existing building already has established spatial relationships with adjacent dwellings and it is considered that the scheme would not significantly alter these prevailing interfaces in relation to outlook. This view is held to be furthered by the previously discussed recess and sympathetically composed height, which nullifies any significant perception of obtrusiveness. For completeness, it is lastly noted that the side-to-side relationship of adjoining properties is not found to be conducive to a significant degree of visual harm to the amenities of those occupiers.
- 5.24 Overall, it is considered that the stated reason for refusal is not substantiated by tangible harm to the visual amenities of surrounding residential properties. It is additionally noted that had the LPA found the scheme to be so significantly unacceptable, then it would have provided for associated harm to the overall character and appearance of the locality. This was not, however, the case.

### **The planning balance**

- 5.25 The preceding section has established the Appellant's position in relation to the substance of the LPA's stated reason for refusal. In arriving at the decision to refuse planning permission for this reason, the LPA considered that the harm that they identified sufficiently outweighed the housing benefits associated with the scheme.
- 5.26 The development would provide for two additional dwellings, making more efficient use of land without significantly affecting the locality. As noted within the case officer's report recommending approval of the scheme, *"the present shortfall in housing land supply within the district centre carries substantial weight in favour of the development"*. The appropriate maximisation of the use of land should have carried far-more weight than it was granted by Members. Again, as the officer noted, *"in terms of planning policy, the site is considered as previously developed land and, in line with Government policy, [the]...redevelopment of this land is encouraged"*.
- 5.27 No harm was identified in relation to the character, amenity or appearance of the surrounding area. Similarly, no loss of privacy and no highway-related concerns were



reflected in the decision. In terms of the planning balance, which carries a presumption in favour of sustainable development that is most significant in finely-balanced cases, it is not considered that the comparatively abstract reason for refusal of the application outweighs the identified benefits of the development.

- 5.28 Whilst the Appellant's view is that the matter was not one of fine-judgement, it nevertheless remains that the development should have been found favourably in relation to the planning balance.

## **6.0 Developer Contribution towards the EFSAC**

- 6.1 The appeal site is situated within the Epping Forest Special Area of Conservation (EFSAC, or SAC) and, had approval been granted, it would have been necessary to complete an accompanying Section 106 agreement to secure the necessary contribution towards the SAC.
- 6.2 Notwithstanding that a second reason for refusal related to the lack of a Section 106 was not included by the LPA, a draft agreement to secure the necessary contribution has been prepared. The agreement has utilised the LPA's standard template and the sum has been agreed with the LPA, with the draft agreement being with the LPA for sign off. A copy of the draft Section 106 agreement is provided in support of the appeal and can be found at Appendix C of this statement and a final engrossed version will be provided within seven weeks of the appeal start date. Should the Inspector find that the development would be acceptable and, therefore, be minded to allow the appeal, it is respectfully requested that the finalised legal agreement should form part of that decision.

## **7.0 Overall, it is considered that Summary and Conclusions**

- 7.1 The previous sections of this statement are considered to demonstrate the acceptability of the proposal in all relevant terms. Specifically, that the development would not result in any significant harm to the visual amenity of surrounding residential properties. The Appellant, therefore, agrees with the original recommendation of the officer.
- 7.2 The proposal does not conflict with any of the policies within either the adopted or the draft local plans and, on that basis, it is respectfully requested that the Inspector allow the appeal and planning permission be granted.