

**PLANNING CONSULTATION BY
EPPING FOREST DISTRICT COUNCIL**

**VALLEY GROWN NURSERIES, PAYNES LANE, NAZEING,
ESSEX, EN9 2EX**

**ADDITIONAL ACCESS ROAD FROM NAZEING ROAD
TO VALLEY GROWN NURSERIES**

Presented by Head of Planning

SUMMARY

This application seeks permission to build a new access road between Nazeing Road and the Valley Grown Nurseries site on Paynes Lane for the use of HGV traffic associated with Valley Grown Nurseries. The road will pass through the Regional Park within the northern part of the River Lee Country Park and over land in the Authority's ownership which is used by visitors and for the management of the Authority's landholdings in the area.

The proposal is contrary to the Park Development Framework Proposals as they relate to the River Lee Country Park (6.A.4) and will have a negative impact on visitor use and enjoyment of the Park. The application also lacks sufficient ecological information to enable a view to be taken in relation to its impact on the biodiversity of the Regional Park and does not take account of the Local Wildlife site designation.

RECOMMENDATION

- Members Approve:
- (1) that Epping Forest District Council be informed that the Authority objects to the current application to build a private access road between Nazeing Road and the Valley Grown Nurseries site on Paynes Lane, for the following reasons:
 - a) it is contrary to Park Development Framework Proposals as they relate to Area 6.A.4 River Lee Country Park;
 - b) it will impact negatively on visitor enjoyment

and use of the Regional Park;

- c) commercial traffic will be introduced into an area set aside for recreation, leisure and the enjoyment of nature conservation; with the additional risk and negative impact of associated inappropriate vehicular and motorbike access into the Park; and
- d) the Ecological Survey report is lacking in detail and there is insufficient ecological information upon which a decision can be made in relation to the impact of the proposed road on the Park and its ecology.

SITE CONTEXT AND DESCRIPTION

- 1 The proposed new road is located within the Regional Park and the Green Belt. The route would pass through an open field and area of mixed scrub and woodland, all of which form part of the River Lee Country Park (RLCP) to the south of Nazeing. The road is proposed to provide an alternative access route for Heavy Good Vehicles (HGVs) servicing the Valley Grown Nurseries (VGN) site located at the southern end of Paynes Lane. Much of the area has previously been used for mineral extraction and reclaimed including areas flooded to form lakes, please refer to the plan at Appendix A to this report.
- 2 Access onto the proposed route would be from Nazeing Road to the north and would link via a new junction with Paynes Lane to the east. The applicant states that the proposal will remove all of the HGV traffic directly associated with VGN that currently uses Paynes Lane.
- 3 A Public Right of Way (PROW) (no.10) is signed from Nazeing Road and follows the same route through into the open field and grassland behind the residential properties. The route of this footpath continues south until it meets with an existing access track. It then heads west across the Flood Relief Channel via a bridge to link into Green Lanes and Kings Weir adjacent to Holyfield Lake. The existing access track, a legacy from the gravel workings in the area continues south alongside the Flood Relief Channel (FRC) where it meets up again with PROW (no 10), please refer to PROW plan at Appendix B to this report.
- 4 Paynes Lane is an established access road off Nazeing Road which provides vehicular and pedestrian access to VGN and a number of other commercial businesses, including other nurseries, and private residential dwellings. It is also an important access route into the Park with a PROW (no.26) along its entire length that links into the east-west route of PROW (no.10) thereby providing connection through to other parts of the RLCP. It is a narrow private road, surfaced but without a footway or street lighting.
- 5 Immediately to the west of the application site lies the FRC and beyond Green Lanes and Nazeing Marsh all of which form part of the RLCP. Land contained to the east and north of the proposed road, is largely open apart from the presence of a number of commercial and horticultural businesses located on the west side of Paynes Lane and two lakes (flooded gravel pits) managed as fisheries. The commercial activities include a car repair yard and a large site used for processing stockpiled recycled soil. The row of residential properties

that sit to the south of Nazeing Road also border the open land.

6 Land Ownership

The Authority owns just under a third of the proposed route of the new road and this comprises part of an existing track which runs alongside the eastern side of the FRC. This forms part of a parcel of land together with land to the west of the Channel which was purchased from Lafarge in 2013 for the sum of £25,000. The access track provides vehicular and visitor access by foot and bicycle south to Holyfield Lake from Green Lanes via a bridge over the FRC.

7 Planning History

VGN is an established horticultural business, growing and supplying salads and vegetables nationwide. In 2013 it obtained permission to expand and a major new area of glass was erected – the site covers an area of 9ha in total. The Authority unsuccessfully challenged Epping Forest District Council (EFDC's) original decision to grant permission, first via the High Court and then via the Court of Appeal. An application made to the Court of Appeal for leave to appeal to the Supreme Court was refused in April 2016 and the Authority decided not to pursue further action challenging the decision. The outcome of the judgment in the Court of Appeal established that agricultural buildings, however large, constituted appropriate development in the Green Belt as defined by the National Planning Policy Framework (NPPF) at that time (2012 version).

- 8 In 2012 an application for a similar road proposal to service the VGN site was refused by EFDC. This proposal sought to create a 9-metre-wide stone track leading from the nursery site west across the agricultural fields onto the access track adjacent to the FRC, to then cross over the water channel and link into Green Lane. The development was not considered necessary or proportionate in relation to the horticultural use that it intended to serve and therefore deemed inappropriate development in the Green Belt contrary to Local Plan policy GB2. The new road was also considered to intrude in the landscape introducing additional commercial traffic into an area used for recreation thereby failing to conserve and enhance the landscape of the Regional Park and its amenity, contrary to Policy RST24.

POLICY BACKGROUND

- 9 Buildings for agriculture and forestry are considered 'appropriate' development within the Green Belt and fall within the exception set out in paragraph 145 of the NPPF 2019 regarding the construction of new buildings within the Green Belt. Paragraph 146 b) of the NPPF further identifies 'engineering operations' as a form of 'other development' that are also considered not inappropriate in the Green Belt, providing they preserve the openness of Green Belt and do not conflict with the purposes of including land within it.
- 10 Local Plan policy both in the Combined Policies of Epping Forest District Local Plan 1998 and Alterations 2006 (published 2008) and the Submission Version 2018 is supportive of the Lee Valley Regional Park, recognising its role as a key asset for the District, and an important component of the region's green infrastructure. Policy RST24 'Design and Location of Development in the LVRP' seeks to ensure developments within the Regional Park have regard to its importance for leisure, recreation and nature conservation, safeguard the amenity and future development of the Park and conserve and enhance the landscape of the Park or its setting. Green Belt policy DM4 Submission Version seeks to protect the openness of the Green Belt; planning permission will not be

granted for inappropriate development, except in very special circumstances, in accordance with national policy. It repeats the exceptions set out in the NPPF para 145 a) and 146 b) as described above.

- 11 Policy E3 'Food Production and Glasshouses' in the Submission Version seeks to ensure vehicular access from new glasshouse sites to the road network is adequate and uses roads capable of accommodating vehicle movements likely to be generated by the development without detriment to highway safety and rural character of roads. However, this policy relates only to new or replacement glasshouses (as in the original VGN application approved back in 2013) and not to a stand-alone application for a road to service a well-established horticultural business where access already exists.
- 12 Development Management Policy DM1 seeks to ensure all development delivers biodiversity net gain in addition to protecting existing habitat and species – proposals should integrate biodiversity through their design and layout. Policy DM1 (G) also states that where a Protected or Priority Species, Priority Habitat or other valuable habitat may be affected by proposed development, applicants must provide a full survey and site assessment to establish the extent of potential impact and inform appropriately designed mitigation measures and plans.
- 13 **Park Development Framework Proposals** place the new road proposal within the RLCP an area within which visitor facilities are to be enhanced and access and the quality of routes for pedestrians and cyclists into and through the RLCP are to be improved (6.A.4 Visitors). The general aim is to work with the Council and landowners to bring sites within the northern part of the RLCP, such as Nazeing Marsh for example, into recreational or leisure use. Proposals also identify the significant angling facilities that exist within the area and the need to protect, manage and continue to improve fisheries within the RLCP as regional leisure and sporting venues.
- 14 Biodiversity Proposals seek to “protect, enhance and manage the mosaic of open water, scrapes, meadows, floodplain grassland and farmland habitats within RLCP, to improve its ecological value and species diversity”. Habitat improvements are to be delivered throughout the RLCP and include waterway and ditch enhancements for wetland mammals such as Otter and Water Vole.
- 15 The Landscape Strategy emphasises the need to continue positive conservation and management of the diverse and valuable wetland habitats, re-creating lost habitats, and balancing this with provision of recreation and enjoyment of the landscape (LCA A3). The coherent and mostly undeveloped character of the valley and sense of naturalness and tranquillity this provides is to be protected. The quality of access routes into the Park from the north along Paynes Lane, Green Lane and Old Nazeing Road are to be improved.

DESCRIPTION OF DEVELOPMENT

- 16 The applicant is seeking to construct a new road between Nazeing Road in the north and Paynes Lane to the south east as a private alternative access to serve the VGN complex. It is proposed to make use of an existing gated farm access, positioned on a residential side loop road, with pavement, that is located off Nazeing Road on its southern side. The gated access point lies between residential properties and opens out into an open field of grass and scrub currently grazed by horses. This access point will be improved to a bellmouth

and a hard paved section of road will extend into the field to the point where a new security gate will be provided set back, so that HGVs arriving will be able to pull in and communicate with VGN who intend to control the road access remotely. For most of its length the road will be 4m wide although at its junction with Nazeing Road it will widen to 7.3m to allow for a passing place.

- 17 From this point south across the field the road will be constructed in unbound materials (hoggin/scalpings/Type 1 MOT) and limited in width to 4m as it is proposed to only allow one vehicle on the route at any one time. The route of the existing PROW (no.10) that also crosses the field will be formalised beside the road and the existing pedestrian gates at either end retained. South of the field the road will cross a watercourse that links into the FRC and this will need to be culverted. It then continues south following an existing access track alongside the FRC, currently in the ownership of the Park Authority. Approximately half way along this track the proposed road will turn eastwards, and pass over a small watercourse which will be culverted. Another security gate will be provided at this point. The road will then continue, crossing an area of woodland planting and scrub, pass alongside a gravel lake before exiting onto Paynes Lane via another remotely controlled gate; here the route widens to 6m. From this point HGVs will only be able to turn right to travel a short distance south into VGN complex.
- 18 The traffic using the proposed road would be restricted to traffic associated with the VGN operations, in conjunction with their normal working hours and be restricted to HGVs only. All other traffic will continue to use Paynes Lane. The Planning Statement makes reference to current HGV movements to VGN being approximately 12 vehicles per day in each direction.
- 19 The applicant considers the new road will bring significant benefits to Paynes Lane in terms of highway safety as HGV movements will reduce and potential conflicts with pedestrians and other road users will also reduce. This will improve access for pedestrians and cyclists using the PROW on Paynes Lane.
- 20 **Ecological Surveys**
The application is accompanied by an Extended Phase 1 Ecological Survey. It concluded that bird and bat boxes could mitigate for the loss of any trees and the small amount of hedgerow that will be removed and that any lighting of the road should be directional, kept to a minimum and avoid lighting key features such as trees or the river. Evidence of Badger using the site was found and although sett(s) were not located at the time of survey it is thought they may be present in an area of impenetrable scrub. The survey report recommends that the Badger survey is updated prior to any works commencing. The survey found the site unsuitable for reptiles and Great Crested Newt but suitable for hedgehog.
- 21 **Flood Risk**
A Flood Risk Assessment submitted with the application advises that the new road is mainly located in Flood Zone 2 although some areas are within zone 3. However, the applicant considers the use to be water compatible in that it is remotely controlled and a less vulnerable type of use, one that can be prevented if a fluvial event is predicted.
- 22 **Landscape and Visual Impact Assessment**
The Landscape and Visual Appraisal provides a detailed assessment and this has considered the sensitivity of the landscape and its ability to withstand

change arising from development without undue negative effects. It considers that generally the landscape does have the capacity to "acceptably accommodate the proposed development" due in part to its low-lying nature and that it will influence only a small geographical area. Impacts on surrounding receptors such as the PROWs are assessed as having 'negligible' to 'moderate' significance (i.e.: moderate significance where PROW 10 lies closest to the route) which they consider below the level considered 'harmful' to landscape character and the visual resource.

- 23 However, notwithstanding the above findings, the appraisal also states the proposal will result in some harm; the introduction of occasional vehicle movements will result in *"a negative impact upon tranquillity, and introduce a visually dynamic and discordant feature at odds with the visual resource. The track itself may also be seen as an incongruous feature (although it will continue the line of an existing track and, with time, will resemble its appearance as the surface materials age and wear). This harm should be considered in the overall planning balance and weighed up against the positive benefits the scheme will bring."* In conclusion the overall significance of the impacts are assessed as minor-moderate adverse. Therefore, the significance for landscape and visual impacts falls below the level of harm that should be considered significant.
- 24 A landscape strategy is recommended with mitigation to compensate for the loss of a small amount of vegetation.

PLANNING APPRAISAL

- 25 **Principle of development in Relation to the Green Belt and Regional Park**
The applicant is proposing to construct a new private road for the use of HGVs within the Green Belt and the Regional Park. An argument is given that the road is required to continue to serve the VGN complex on Paynes Lane, thereby linking the development to an agricultural/horticultural use within the Green Belt. However, the major redevelopment of the VGN site was permitted in 2013 on the basis of the main vehicle access continuing along Paynes Lane and the site has been in operation now for some 6 years or more without the requirement for an additional service road. There is no indication in supporting information that the number of HGV movements has increased to a significant extent as a result of the VGN operation and indeed it is stressed that the use of the proposed road is to be for occasional HGV use.
- 26 The road proposal is not therefore considered to fall within the category of exceptions to new buildings within the Green Belt as described under para 145a) 'buildings for agriculture and forestry' of the NPPF. It could however be argued that it is an 'engineering operation' (NPPF para 146b)) in which case it would be deemed a not inappropriate form of development in the Green Belt, providing it preserves the openness of the Green Belt and the purposes of including land within it. The question of its impact on openness is considered below in relation to the impact of the road on the Regional Park.
- 27 **Park Development Framework Proposals**
The proposal to construct a private access road within the Regional Park for use by HGVs is considered contrary to the PDF proposals and inappropriate in the context of the RCLP, where sites are to be brought into use for recreational and leisure purposes and visitor access and enjoyment of the environment and nature enhanced. It will introduce commercial traffic into an area designated for recreation, leisure and the enjoyment of nature conservation. There is also

concern that a new road will bring with it risks associated with inappropriate vehicular and motorbike access to the detriment of the wider Park.

28 The use by HGVs even if on an 'occasional basis' will still have the potential to conflict with people using the footpath even if the PROW is formalised beside the road; details as to how this will be achieved are not clear from the plans submitted. When the HGVs turn right onto Paynes Lane to head south into the VGN complex they will be again sharing the Lane with pedestrians using PROW (no.26), albeit for a very short distance. There is also concern about the proximity of the road as it passes along the northern boundary of the gravel lake close to Paynes Lane. Although this area is not publically accessible it is noted as part of the PDF Proposals, Sport & Recreation thematic proposals map, as a site contributing to angling in the RLCP which is to be enhanced.

29 Visual Impacts

The road will facilitate the movement of HGVs through an area of largely open land which although 'reclaimed' is nonetheless a relatively quiet and not unattractive setting for both the PROW (no.10) that passes through and crosses the Flood Relief Channel, and the access route south that is provided via the existing track down to Holyfield Lake. The Visual Appraisal found the visual impact on views along the PROW to be moderate adverse with visual sensitivity to be medium to high. This is where the incongruous nature of the new road and the associated infrastructure will be most apparent.

30 The application shows that only a small section of the road will be hard surfaced near the entrance area from Nazeing Road. A surfaced route within the Park will still be created however, through what is currently an open field of grass and scrub, and then through a more wooded scrubland area, along which large vehicles will travel. This will change the character of the Park and the experience of the visitor, especially in terms of the openness of the Park which is a key feature of the landscape south of Nazeing Road. As described in the Visual and Landscape Appraisal this will introduce a "*visually dynamic and discordant feature at odds with the visual resource*".

31 There is also concern over the quality and durability of the road and the visual impact this will have on the Park given its construction from largely non macadam sub base materials. Roadways not sealed with macadam are likely to erode quickly under HGV use, creating multiple potholes that will require constant maintenance and which ultimately will visually detract from the Park landscape and its amenity.

32 Ecology

The Ecological Survey report is lacking in detail and the application does not provide sufficient detail upon which to make a decision. A biodiversity net gain assessment has not been undertaken, so it is difficult to judge the impact of the mitigation that is proposed. Ecological information is a material consideration in the planning process and should be provided in sufficient detail to enable a full assessment of the application. The proposed route of the road would pass through a Local Wildlife Site – 'Ep5 Lee Valley Central' and therefore would be an inappropriate development for the site. This non-statutory designation does not appear to be referenced in the ecological survey report.

33 The survey report does not provide a habitat map to identify habitats present in the application area or the location of key features. The methodologies used to undertake the surveys have not been detailed and it is not possible to say if

they, or the mitigation proposed is appropriate. For example:

- The bird survey was undertaken outside of the main breeding season and therefore a clear picture of the species that breed in the area is not provided, although the survey did note that habitat that is likely to be used by breeding birds would be lost. It is unlikely that the installation of bird boxes would fully compensate for the loss of this scrub habitat. Timings of scrub removal work would also need to be considered.
- Use of the site by Badgers was identified however further surveys should be undertaken to determine the location of the Setts so that the impacts can be fully assessed. This should be done prior to any permissions being granted.
- Whilst the trees were assessed for bat roost potential there was no assessment of bat activity and therefore the impacts of the tree and scrub removal cannot be fully assessed. If the road is to be lit a lighting plan would be required. Locations and numbers of proposed bat boxes should be indicated.
- The site is considered to be suitable for hedgehogs however the loss of scrub could impact upon their population. Mitigation through the planting of additional scrub areas or the creations of hedgehog homes should be included in the scheme.
- Japanese Knotweed is present on site; this will require a plan to be drawn up and submitted to the Local Planning Authority for approval to cover best practice during the construction of the road and then on-going management.
- There is mention of the watercourses that need to be culverted. There has been no survey work undertaken on Otters (which are known to be present in the area), the culverting of a watercourse alongside the vehicle movements may pose a threat to Otters moving along the watercourse and this requires detailed consideration.
- A plan of mitigation measures should be produced as part of the application.

34 **Operational**

The section of existing access track adjacent to the FRC that is within the Authority's ownership is used by the Regional Park's Ranger team as part of Park operations and management of the RLCP. Likewise, it provides access for the Environment Agency, and is also an access route for the fisheries in the area. Additional traffic along part of this track, especially use by HGVs would conflict with these uses as well as the informal use by visitors on foot or cycling through the River Lee Country Park. The outcome of the proposed road therefore would be to replicate the existing issues of conflict between lorry movements and pedestrians/cyclists visiting the Park experienced along Paynes Lane further into the Park at Nazeing. Officers query whether the applicant has considered scope for enhancing the existing route via Paynes Lane rather than creating a new problem of conflict within a second area of the Park.

35 Finally, there is also concern as to whether the proposed 'occasional' use by

HGVs can be secured by condition as this would need to be monitored. No proposal has been included for the monitoring of the road and Officers are not convinced that a mechanism for this can be secured over the longer term.

- 36 Given all the above considerations it is recommended that an objection be made to the proposal to construct a new road through the Regional Park within Nazeing.

ENVIRONMENTAL IMPLICATIONS

- 37 These are addressed in the body of the report.

FINANCIAL IMPLICATIONS

- 38 There are no financial implications arising directly from the recommendations in this report.

LEGAL IMPLICATIONS

- 39 Planning applications referred to this Authority are submitted under the consultative arrangements of Section 14 (4-7) of the Lee Valley Regional Park Act 1966 (the Park Act). The Park Act requires a local planning authority to consult with the Authority on any planning application for development, whether within the designated area of the Park or not, which might affect any part of the Park.

- 40 The Park Act enables the Authority to make representations to the local planning authority which they shall take into account when determining the planning application.

RISK MANAGEMENT IMPLICATIONS

- 41 There are no risk management implications arising directly from the recommendations in this report.

EQUALITY IMPLICATIONS

- 42 There are no equality implications arising directly from the recommendations in this report.

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BACKGROUND REPORTS

Application Papers 20.107

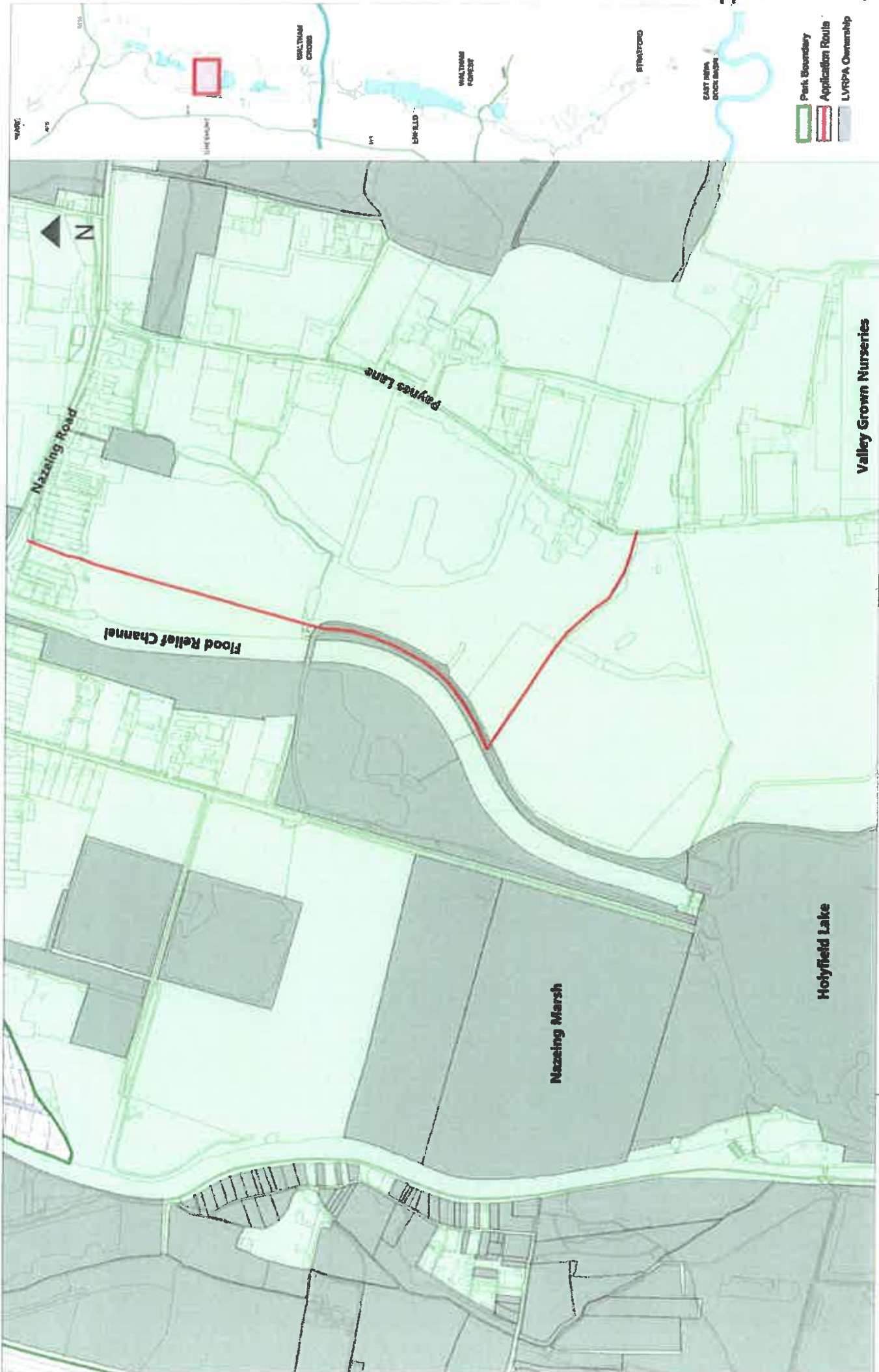
November 2020

APPENDICES ATTACHED

- Appendix A Plan of the application site also showing the Authority's land ownership
Appendix B Plan showing the Public Rights of Way relevant to the proposed application

LIST OF ABBREVIATIONS

VGN	Valley Grown Nurseries
PDF	Park Development Framework
PROW	Public Right of Way
FRC	Flood Relief Channel
RLCP	River Lee Country Park
EFDC	Epping Forest District Council
NPPF	National Planning Policy Framework
HGV	Heavy Good Vehicle



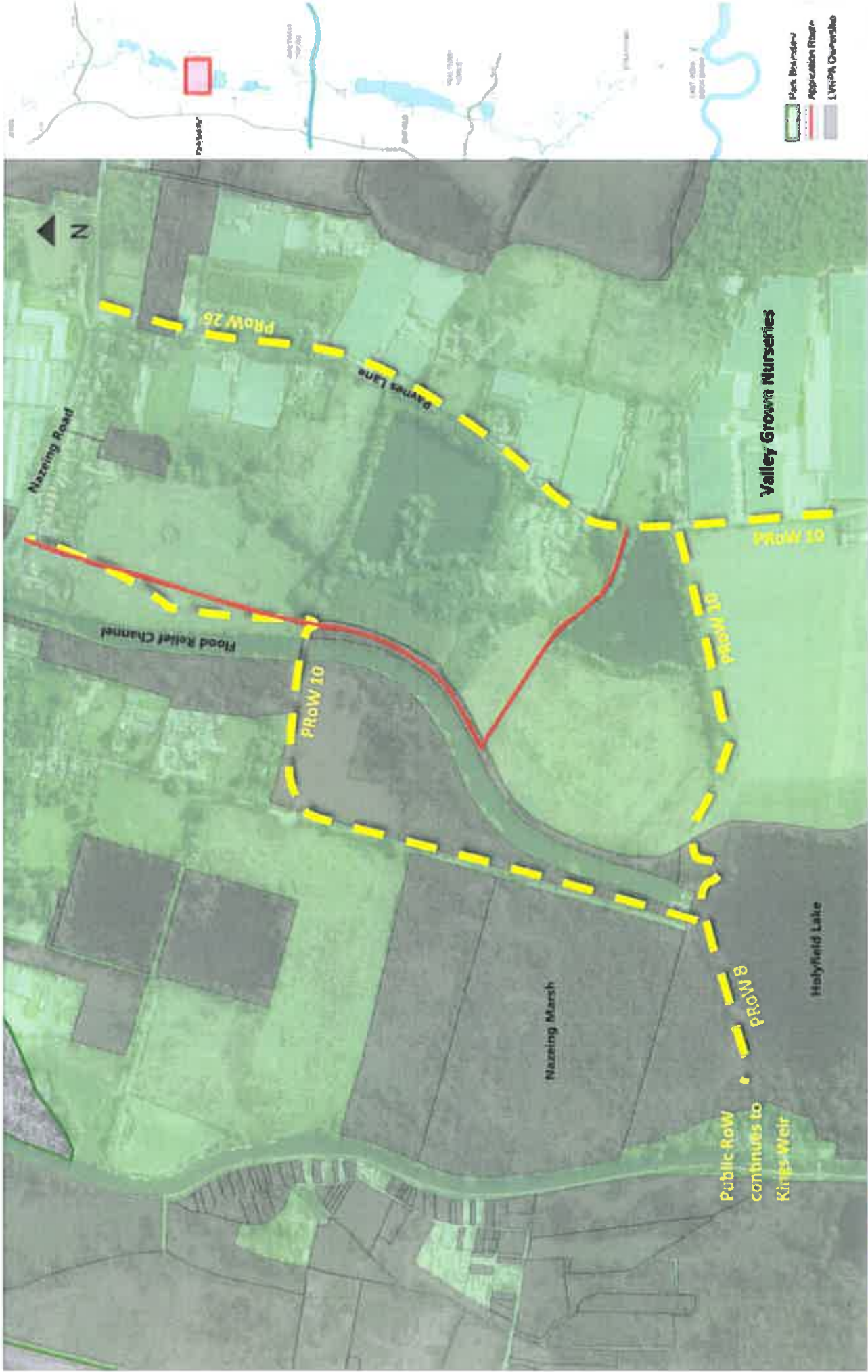
Proposed New Road, Valley Grown Nurseries, Nazeing

NTS @ A4
11.11.20

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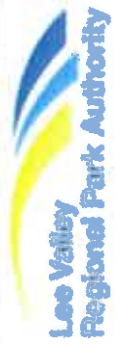


Proposed New Road and relevant public rights of way

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