



# Epping Forest District Council



Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Contains Ordnance Survey Data. © Crown Copyright 2013 EFDC License No: 100018534

Contains Royal Mail Data. © Royal Mail Copyright & Database Right 2013

Application Number:	EPF/0766/20
Site Name:	21 Forest Drive Theydon Bois CM16 7HA
Scale of Plot:	1:1250

**Report Item No: 11**

<b>APPLICATION No:</b>	EPF/0766/20
<b>SITE ADDRESS:</b>	21 Forest Drive Theydon Bois Epping CM16 7HA
<b>PARISH:</b>	Theydon Bois
<b>WARD:</b>	Theydon Bois
<b>APPLICANT:</b>	Mr Willem Botha
<b>DESCRIPTION OF PROPOSAL:</b>	Part retrospective application for creation of one bed flat and associated parking (Revised application to EPF/0066/20)** SAC CASE HELD IN ABEYANCE NOW PROGRESSING**
<b>RECOMMENDED DECISION:</b>	Grant 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=635623](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=635623)

**CONDITIONS**

- 1 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:  
  
Site Location Plan  
Drawing 001 - Existing Ground and First Floor Plans  
Drawing 002 Rev 2 - Proposed Ground and First Floor Plans  
Drawing 003 - Existing Rear Elevation and Roof Plan  
Drawing 004 Rev 2 - Proposed Rear Elevation and Roof Plan  
Drawing 005 - Existing Side Elevations and Section  
Drawing 006 - Proposed Side Elevations and Section  
Drawing 007 - Existing and Proposed Front Elevation  
Drawing 008 - Existing Site Layout  
Drawing 009 Rev 2 - Proposed Site Layout  
Design and Access Statement.
- 2 Within 3 months of the date of this planning permission the garden subdivision shall be implemented as shown on the approved drawings and retained as such in perpetuity.
- 3 The parking area shown on the approved plans shall be retained free of obstruction for the parking of residents in perpetuity.
- 4 Within 3 months of the date of this planning permission the ground floor rear bathroom windows shall be fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of those windows that is less than 1.7 metres above the internal floor level of the room in which it is installed shall be capable of being opened. Once installed the obscure glass shall be retained thereafter.

- 5 Within 3 months of the date of this planning permission, 1 Electric Vehicle Charging Point shall be installed and retained thereafter for use by the occupants of the site.
- 6 Within 3 months of the date of this planning permission, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority (LPA). The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy.
- 7 Measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

*This application is before this 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 has confirmed in writing their intention to attend and speak at the meeting where the proposal will be considered (Pursuant to The Constitution, Part 3c: Scheme of Delegation to Officers from Full Council).*

#### **Description of Site:**

Two-storey semi-detached dwellinghouse by the junction of Forest Drive with Buxton Road.

Not listed or in a conservation area.

Theydon Bois London Underground Station is 300m / a 5 minute walk from the application site.

Forest Drive also hosts a local parade of shops and amenities. It is the local centre for the Village of Theydon Bois.

Nos 21 (the application site) and 23 Forest Drive, the adjoining semi are in the same ownership.

#### **Description of Proposal:**

***Part retrospective application for Creation of one bed flat and associated parking (Revised application to EPF/0066/20).***

The original description of development has been amended to reflect the fact that this application is part retrospective in that the flat is in use with car parking in place, however the proposed garden alterations have not yet been implemented.

Amended drawings 002 Rev 2, 004 Rev 2 and 009 Rev 2 were received on 25<sup>th</sup> April 2022. These amended drawings removed the previously proposed ground floor living room rear facing obscure glazed window. The obscure glazed window was changed to clear glazed on the advice of the case officer on the basis that it is not required to be obscure glazed to protect privacy and obscuring the glazing in this window does not achieve any other useful purpose (and in fact reduces the level of outlook from this room and the ability to identify people calling at the entrance door to the flat).

The amendments compared to the refused EPF/0066/20 scheme are as follows:

- Existing rear garden of No. 21 subdivided to provide a separate garden area for occupier of the proposed flat.
- Car parking space enlarged.

**Relevant History:**

**21 Forest Drive (004062):**

EPF/0066/20 - Proposed creation of a one bedroom flat & associated parking. Refused 20.02.2020.

Reasons for refusal:

1. The proposed development provides unsatisfactory private amenity space for the proposed flat and as such is contrary to policy DBE8 (iii) of the adopted Local Plan and Alterations and policies SP 3 (v) and DM 9 of the Epping Forest District Local Plan Submission Version (2017); and, the provisions of the National Planning Policy Framework, February 2019.
2. The application does not provide sufficient information to satisfy the Council, as competent authority, that the proposed development will not adversely affect 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 proposed development should be permitted. As such the proposed development is contrary to policies CP1 and CP6 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 and the requirements of the Habitats Regulations 2017.
3. The proposed parking spaces would not meet the size requirements as set by the Essex Parking Standards 2009. The spaces would not be suitable for all types and sizes of cars. The proposal would therefore fail to comply with policy ST4 of the adopted Local Plan (1998) and policy T 2 of the Submission Version of the Local Plan (2017).
4. The proposed car parking space to the rear by reason of its siting would result in an unacceptable loss of outlook for the future occupiers of the proposed ground floor flat. The proposal is therefore contrary to policy DBE9 of the adopted Local Plan (1998), policy DM 9 of the Submission Version of the Local Plan (2017) and the NPPF (2019).

EPF/3002/18 - Proposed subdivision of dwelling to 2 no. 2 bed flats and 1 no. 1 bed flat with associated parking. Refused 21.01.2019.

EPF/1883/18 - Proposed erection of rear dormer. Approved subject to conditions 30.08.2018.

**21 and 23 Forest Drive (018362):**

EPF/1000/18 - Ground floor roof extension, ground and first floor side extension, roof extensions for loft accommodation. Approved 19.06.2018.

EPF/3159/16 - Side and roof extension to form 3 x 2 bedroom and 4 x 1 bedroom flats (7 flats in total) together with associated parking and landscaping. Refused 09.02.2017.

## **Policies Applied:**

### *Adopted Local Plan:*

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the quality of the rural and built environment
CP3	New Development
CP4	Energy Conservation
CP6	Achieving Sustainable Urban Development Patterns
RP5A	Adverse Environmental Impacts
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
DBE6	Car Parking in New Development
DBE8	Private Amenity Space
DBE9	Loss of Amenity
DBE11	Sub-Division of Properties
ST4	Road Safety
ST6	Vehicle 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.

## **NATIONAL PLANNING POLICY FRAMEWORK (July 2021)**

The revised NPPF 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:

(c)

- 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.

## **EPPING FOREST DISTRICT LOCAL PLAN SUBMISSION VERSION (2017) (LPSV)**

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).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019.

The appointed Inspector issued her initial advice on 2 August 2019 and since then, the Council has undertaken further work to address the actions identified by the Inspector. This has led to the production of a number of proposed changes to the Local Plan Submission Version 2017 (known as the Schedule of Main Modifications) and additional supporting documents associated with the Main Modifications. These are to address issues of soundness and/or legal compliance identified by the Inspector.

The Main Modifications include changes to some of the supporting text and Policies within the Plan, deletion and amendment to some site allocations, updated Housing Supply data to March 2020, along with associated changes to the mapping contained within the Plan.

The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan. Following the close of the consultation (ends 23<sup>rd</sup> September 2021), the representations will be passed to the Inspector for her consideration before the publication of the Inspector's final report.

The following policies in the LPSV are considered to be of relevance to the determination of this application:

SP 1	Presumption in favour of sustainable development
H 1	Housing Mix and Accommodation Types
DM 2	Epping Forest SAC and the Lee Valley SPA
DM 9	High Quality Design
DM 10	Housing Design and Quality
DM 19	Sustainable Water Use
DM 21	Local Environmental Impacts, Pollution and Land Contamination
DM 22	Air Quality

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

Theydon Bois Parish Council	Objection
ECC Highways	No objection
EFDC Land Drainage	No objection

Theydon Bois Parish Council – Objection:

### **“Return: OBJECTION**

*When considering this new application, the Planning Committee viewed the previous plan history of the site which, in 2009, included the sub-division of part of the original gardens allocated to Nos.21 and 23 Forest Drive to provide for an infill dwelling at 33 Buxton Road (EPF/1446/09). Whilst this resulted in some reduction in the amenity space afforded to the host dwellings, the remaining provision was still comparable with that of other semi-detached properties in the locality.*

*More recently, after an application to add extensions to the property at No.21 was granted under EPF/1000/18 (construction work for which is now believed to have been completed), a further proposal (under EPF/3002/18) to sub-divide the dwelling to create a total of 3 flats was submitted, and refused. A further application to sub-divide the ground floor, to create a one-bedroom flat, was also refused earlier this year.*

*The Planning Committee raised an Objection to that previous submission, under EPF/0066/20, in its Return dated 7<sup>th</sup> February 2020. Whilst the new application has sought to address some of the reasons for the earlier refusal, the Planning Committee noted that a number of issues remain unresolved.*

*In particular, the following Objections, raised in the previous Return, are still pertinent to this current application:*

- **Outlook:** *Pursuant to the revised proposal, there would still be no real outlook from the main living area of the proposed flat, except onto the 2m high side boundary fence (at only 1m away), with the small secondary window, adjacent to the rear door, being now obscure-glazed. The revision to the application to install obscure glazing in the secondary window, overlooking the car parking space, would arguably exacerbate the issue by further limiting the outlook and the light in the room; and*
- **Configuration:** *It was noted that the main living room of the host dwelling would be directly adjacent to the bedroom of No.21A. The bedrooms (on the first floor) of No.21 would be directly above the living area of No.21A, whilst the bathroom window to the proposed flat would now open onto the garden area of No.21. Overall, this arrangement would be unlikely to result in a positive level of amenity for future occupants, and the proposal would, therefore, be likely to conflict with the provisions of Current Local Plan Policies: CP2 (iv), DBE9 and DBE11, and those of the New Epping Forest District Local Plan (2011-2033) under DM9 and DM10.*

*Further, the revised proposal seeks to address the lack of private amenity space afforded to the flat by virtue of sub-dividing the plot, such that the rear garden would be shared between the host dwelling (No.21), and the new flat (No.21A). However, the garden area allocated to No.21A would not be visible from any of its habitable rooms, and would be separated from the flat by the parking space. The area would also be directly overlooked by a bedroom on the first floor belonging to No.21.*

*This arrangement would also leave the host dwelling with an inadequate area for amenity use. No.21 comprises a number of habitable rooms on the ground floor, plus 4 bedrooms, and a study, on the first floor and the Planning Committee considered that a useable area measuring only an approximate 40 square metres would not be sufficient to provide a good level of amenity to future occupants.*

*This view is supported by reference to Paragraph 15.52 of the current 'Epping Forest District Local Plan, 1998 (with alterations of 2006)' which states that, "...the District Council will expect rear gardens of new dwellings to have a minimum area of 20 square metres for each habitable room - this being defined as a living room, bedroom or kitchen/dining room...so as to provide a reasonable area of outside amenity space and ensure that development is not out of scale or character with its surroundings."*

*Therefore, with 6 or 7 habitable rooms, the host dwelling should be afforded around 120-140 square metres of private amenity space. Even allowing for some flexibility in this provision, the current proposal would fall well below that provided to other properties in the vicinity, and the constrained and disproportionately small area of amenity space would be significantly out of character with the locality, contrary to Policies CP2(iv) and DBE8 of the Current Local Plan, and DM9 of the New Local Plan (2011-2033).*

*In light of the above, the Planning Committee is of the view that the sub-division of 21 Forest Drive, in the way presently proposed, would not provide occupants of either part of the dwelling with a good level of amenity, nor produce the quality of development reflected in the character of the locality."*

Date of site visit: 22.04.2022

Number of neighbours consulted: 15

Responses received: None.

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

The main issues are considered to be the principle of development; character and appearance, impact on neighbours; amenity of future occupiers; and, impact on the Epping Forest Special Area of Conservation (SAC).

#### **Principle of development**

The Officer's report for refused application EPF/0066/20 stated:

*"In principle the proposal has merit. The proposal is for a residential use in a residential area. The site is in a reasonably sustainable location; there are shops along Forest Drive and nearby Coppice Row. The site is in close proximity to the Theydon Bois London Underground Station. Furthermore the proposal offers a unit of housing at modest price."*

The principle of a flat on this site is considered to be acceptable given its village centre location, 5 minute walk to a tube station and the presence of other flatted developments in the immediate area (the closest being the flatted blocks directly opposite on Buxton Road (Buxton Court) and on Forest Drive (20 Forest Drive)). A separate single family dwellinghouse (No 21) will also be retained on the site.

#### **Impact on the Character of the area**

The proposed development is considered to be acceptable in terms of design, character and appearance.



The building still appears as a single family dwellinghouse as seen from the Forest Drive streetscene.

The entrance to the flat and garden are from the car parking space to the rear off of Buxton Road and the proposed flat does not have a harmful impact upon the character or appearance of the site or surrounding area.

#### Residential amenity (Impact on neighbours)

With regard to the issue of noise, the layout would not give rise to noise nuisance or disturbance as a one bedroom unit is unlikely to cause significant intensification in terms of noise and activity compared with the existing situation. Moreover, the stacking of rooms is acceptable as bedrooms would be above bedrooms, bathrooms above bathrooms so should not result in increase noise and disturbance to the first floor area of the application building. the proposed flat would itself not adjoin no. 23 and is set away from this dwellinghouse to cause any noise and disturbance to this dwellinghouse. The proposal would in this regard comply with to policy DBE11 (ii) of the adopted Local Plan and DM 9 H. (iv).of the LPSV 2017.

With regard to the amenity of no. 33 Buxton Road to the rear, the rear elevation at ground floor would not result in significant increases in the levels of overlooking compared with the existing situation.

The proposal would not result in excessive harm to the amenities enjoyed by the occupiers of dwellings located opposite on Forest Drive or residential properties on the other side of Buxton Road due to the significant separation distance between the application site and these neighbouring properties.

#### Quality of accommodation (Future occupiers)

Private amenity space – The proposed development now includes a private garden for the occupiers of the proposed flat of approximately 40 sq. m.

Whilst this results in the reduction of the garden space available to the occupiers of the dwellinghouse (No. 21) it is considered that both the dwellinghouse and the flat will have access to private amenity space of a size, shape and nature which enables reasonable use and the proposal is therefore acceptable in this respect and the previous reason for refusal has been successfully addressed.

Outlook – Whilst it is noted that the outlook enjoyed from the main side facing living room windows is restricted by the close boarded fence only 1m away it is also the case that the height of the windows in relation to the fence is such that the fence provides some privacy whilst also allowing outlook to be achieved by the occupier looking out and up above the fence.

Amended drawings 002 Rev 2, 004 Rev 2 and 009 Rev 2 were received on 25<sup>th</sup> April 2022. These amended drawings removed the previously proposed ground floor living room rear facing obscure glazed window. The obscure glazed window was changed to clear glazed on the advice of the case officer on the basis that it is not required to be obscure glazed to protect privacy and obscuring the glazing in this window does not achieve any other useful purpose (and in fact reduces the level of outlook from this room and the ability to identify people calling at the entrance door to the flat). If the occupiers of the proposed flat wish to look out onto their car parking area then they are entitled to do so.

In conclusion on outlook, whilst the outlook enjoyed from the living room windows is not ideal, in this instance it is considered to be acceptable on balance.

Floor area – The floor area of the proposed flat is 39 sq. m which meets the minimum requirements of national space standards for a studio flat.

The quality of accommodation / living conditions for future occupiers is considered to be acceptable.

### Parking arrangements

Essex CC Highways department has no objection to the proposed development.

With regard to parking provision, one space would be provided to the rear. One space is acceptable as a minimum for this flat. This is due to the site being in close proximity to local shops and Theydon Bois London Underground Station. The station is located on a section of the Central Line which is not on a 'loop' unlike some other stations within the District i.e. Chigwell. As such, it's positioning on the tube line results in more frequent train services compared with stations such as Chigwell which are on a 'loop' section of the line. Essex Parking Standards 2009 does permit Local Planning Authorities to allow reduced parking in areas close to sustainable nodes of transport. As such, 1 parking space is acceptable compared with the standard two spaces that would usually be required for the proposed development.

The proposed car parking space has been enlarged to 2.9m by 5.5m and therefore reason for refusal no. 4 of EPF/0066/20 has been overcome and the proposal is now acceptable in terms of car parking provision.

### Epping Forest Special Area of Conservation (SAC)

The application site is less than 3km from the Epping Forest SAC.

The Council adopted an Interim Strategy for managing recreational pressures on the Epping Forest Special Area of Conservation (EFSAC) in October 2018. This requires a financial 'recreation contribution' of £352 for each net additional dwelling built within 3km of the EFSAC.

More recently, the Council adopted an Interim Air Pollution Mitigation Strategy (APMS) (dated December 2020, adopted 8th February 2021) in order to mitigate the effects of new development on air quality. This requires mitigation in the form of a financial contribution - £335 per dwelling, as well as ensuring all new car parking spaces have physical access to an EV charging point and provision of digital communications infrastructure to support home working.

Mitigation is therefore required in the form of financial contribution to address recreational and air quality impact as follows:

£352 x 1 = £352

£335 x 1 = £335

Total = £687.

The applicant has agreed to make the required financial contribution by unilateral undertaking.

EV charging point and digital communications infrastructure will be secured by planning condition.

### **Conclusion:**

Recommended for approval subject to conditions and legal agreement.

**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: Cuma Ahmet**  
**Direct Line Telephone Number: 01992 564000**

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