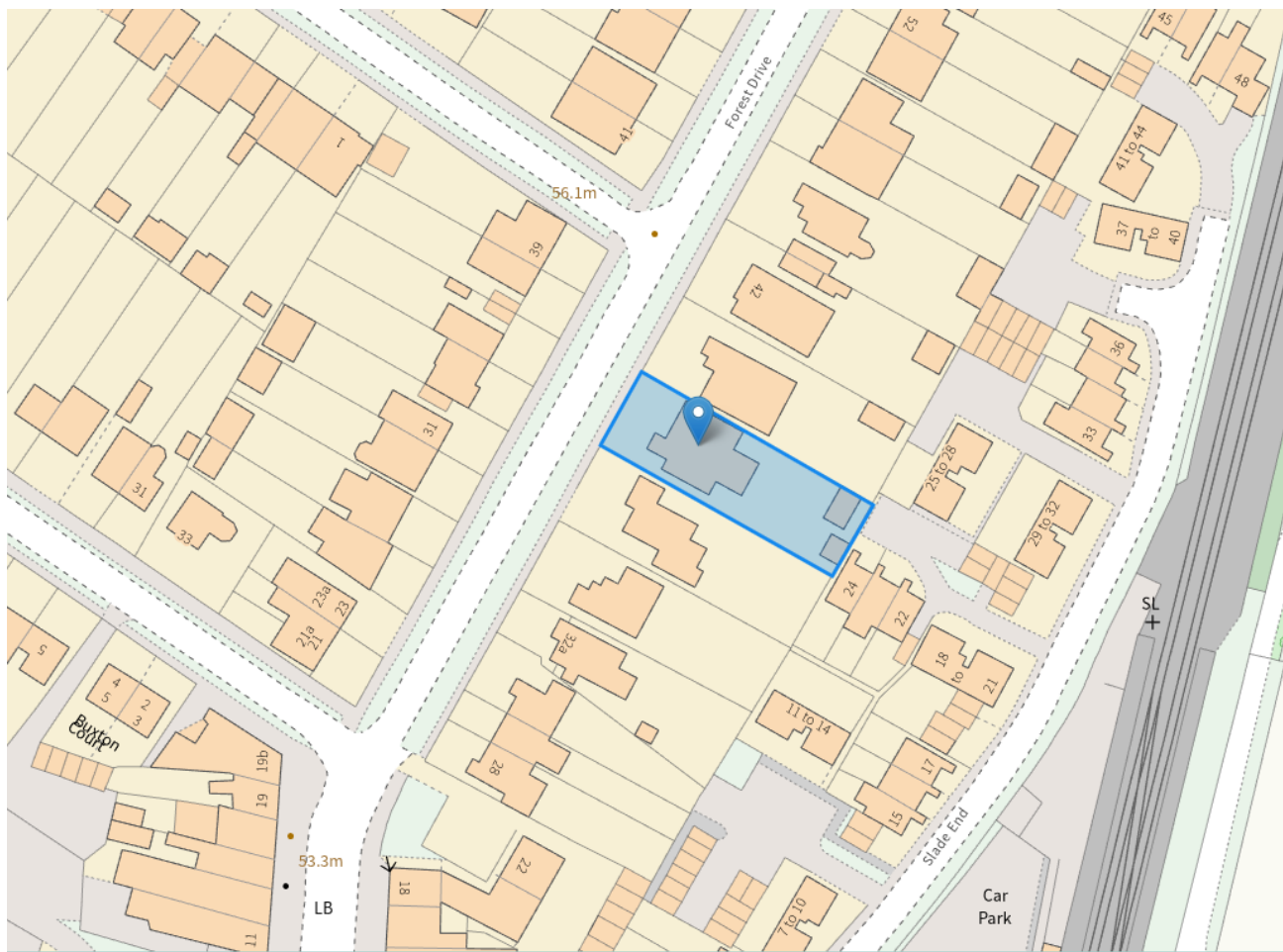




# Epping Forest District Council

# EFDC



# EFDC

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Application Number:	EPF/2559/22
Site Name:	38, Forest Drive, Theydon Bois, Epping, CM16 7EZ

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# OFFICER REPORT

**Application Ref:** EPF/2559/22  
**Application Type:** Householder planning permission  
**Applicant:** Mr Peter Larcher

**Case Officer:** Sukhvinder Dhadwar  
**Site Address:** 38, Forest Drive, Theydon Bois, Epping, CM16 7EZ  
**Proposal:** Retrospective application for alterations to approved boundary wall.  
**Ward:** Theydon Bois  
**Parish:** Theydon Bois  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000001Uca4>  
**Recommendation:** Approve with Conditions

*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 confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).*

## **Description of Site:**

The proposal site comprises a detached bungalow on the eastern side of Forest Drive. The land on the site falls in an easterly direction.

The application bungalow is situated within a group of 7 similar types of properties. It appears that 6 of the bungalows were built around the 1920's and 32A was built more recently, it however it has a design which follows the principles of the previous bungalows. The wider street is characterised by two storey dwellings.

The site falls within the urban area of Theydon Bois. It has no heritage designation.

## **Description of Proposal:**

Retrospective permission is sought for alterations to the approved boundary wall.

## **Relevant History:**

EPF/1112/19 Demolition of existing garage and store to construct extensions to the side, rear and roof.  
Approved

## **DEVELOPMENT PLAN**

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  
DBE2 Effect on Neighbouring Properties  
DBE3 Design in Urban Areas  
DBE6 Car Parking in New Development  
DBE8 Private Amenity Space  
DBE9 loss of Amenity  
DBE10 Residential extensions  
LL11 Landscaping schemes  
ST4 Road Safety  
ST6 Vehicle Parking

### 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:

- 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)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14 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 of 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.

The Council has prepared a number of changes, known as Main Modifications (MM) to the Epping Forest District Local Plan Submission Version 2017 (LPSV) to address issues of soundness and/or legal

compliance identified by the Inspector. These were put forward without prejudice to the Inspector's final conclusions on the Plan.

Representations were invited on the Main Modifications and supporting documents only, and the consultation ran for 10 weeks from Thursday 15 July 2021 to 5pm on Thursday 23 September 2021.

The most recent update dated 16 June 2022 (ED141) outlines that changes are required to the text of the submitted Plan and the Main Modifications (consulted upon in 2021) in order to meet the tests of soundness as set out in the National Planning Policy Framework. The note sets out a number of Actions for the Council and requires a new schedule of Main Modifications to be produced and consulted upon. The Council is immediately directing resources to be able to respond on all of the Inspector's Actions as swiftly as possible and, upon agreement to a new schedule of Main Modifications, to undertake the required consultation in order to be able to move towards the conclusion of the Examination and the final adoption of the Plan as quickly as possible'. It is therefore at an advanced stage of preparation.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated.

DM9 - High Quality Design

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

Site notice posted: No, not required

Responses received: None from neighbours,

### **PARISH COUNCIL OBJECTION**

This application seeks to regularise planning breaches reported to Epping Forest District Council (EFDC) by Theydon Bois Parish Council in April 2021 and in June 2022, in response to the erection of railings to the front boundary wall of 38 Forest Drive – this being in direct breach of Conditions 2, 3, 4 and 5 of the Grant of Planning Permission under EPF/1112/19.

The Parish Council objects to this proposal. The Conditions attached to the above referenced grant are clear, and the Planning Committee does not believe it is acceptable for these Conditions to be disregarded. The property is one of a group of six uniquely characterful bungalows. Significant time and effort has been expended by the Planning Inspectorate, EFDC and the Parish Council to ensure that development proposals to these properties has been undertaken sympathetically so as to retain the positive contribution that they, as a cohesive group, make to the streetscene.

38 Forest Drive is one of an original group of six bungalows, of a distinctive design, which are well known locally. Dating from the 1920s they share a number of architectural features, of similar design and proportions, such that they form a cohesive group. The Planning Inspector, when considering refusal of a replacement bungalow at adjacent property 40 Forest Drive observed "the lively character which the group presently establishes" and how they are "noticeably more perky in character than that of the semi-detached houses which dominate the rest of the street."

The proposal under EPF/1112/19 for a low boundary wall to the front of 38 Forest Drive, with the planting of a substantial 1.4 m high evergreen hedge behind – as shown on drawing 04A submitted with that planning application – was originally considered by the Parish Council in the light of previous concerns raised during the construction of a boundary wall to No. 42 Forest Drive. The Planning Committee was therefore content to note that Planning Permission Grant EPF/1112/19 includes the following Conditions:

**2. The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 01, 04A, 05 and 06. Reason – To ensure the proposal is built in accordance with the approved drawings.**

3. *Materials to be used for the external finishes of the proposed development shall be as stated in the application form (boundary walls – stock brick) and (outbuildings – timber finish), unless otherwise agreed in writing by the Local Planning Authority. Reason – To safeguard the visual amenities of the locality ...*

4. ***The evergreen hedge behind the proposed front boundary wall shall be retained, at an approximate height of 1.4 metres, on a permanent basis. If any plant dies, it shall be replaced with another of the same or similar species. Reason – In order to soften the appearance of this new front boundary wall and to safeguard the character and appearance of the area.***

5. ***No railings shall be attached at any time to the proposed front boundary wall, without the prior written approval of the Local Planning Authority. Reason – in the interests of safeguarding the visual amenity in the street scene. [emboldening = Parish Council emphasis]***

There is no ambiguity here – the Conditions make it perfectly clear that an evergreen hedge is to be planted, and that metal railings are not to be attached to the boundary wall *at any time*. However, the evergreen hedge remains absent, and railings were first erected in April 2021, then temporarily removed on the advice of EFDC Planning Enforcement, before being reinstated this summer. The cover letter submitted with this current proposal states:

*“Our client has built something ever so slightly different from this approval. He has lowered the height of the brick walls and installed black metal railings. Whilst this is slightly different from the approval this is not out of keeping. There are several houses nearby which have railings to the front of their sites.”*

The Planning Committee strongly disagrees with the above statement. The development as built cannot be said to be “ever so slightly different from [EPF/1112/19] approval”. A brick wall with utilitarian black metal railings attached is not a soft boundary treatment, and is clearly contrary to Conditions 4 and 5 of the Planning Permission Grant under EPF/1112/19.

None of this group of six characterful bungalows have metal railings attached to their front boundaries. Proposed railings to the front boundary of No 42 Forest Drive were objected to by the Parish Council, and the subsequent grant of planning permission under EPF/1492/22 for that property includes the same two conditions regarding the planting of an evergreen hedge and the non-attachment of railings as included under EPF/1112/19. The Parish Council has always encouraged the retention of lower boundary treatments with hedging to enhance the rural feel and essentially open character of frontages within the village.

The Planning Committee is mindful of the full and proper consideration to be given to safeguarding and enhancing the visual amenities of the area and to ensuring a satisfactory appearance, in accordance with policy LL11 of the adopted Local Plan 1998 & 2006, policy DM3 of the Local Plan Submission Version 2017, and provisions of the NPPF (2021). This proposal is in conflict with these policies and with recently granted planning permission. The Parish Council therefore urges EFDC to refuse the application.

#### Main Issues and Considerations:

The key considerations for the determination of this application are the proposal's impact on the character and appearance of the area and neighbouring residential amenity.

#### Character and appearance

The property is located within a built-up area with no heritage designation.

In their consultation response to planning application EPF/1112/19. Theydon Bois Parish Council suggested two conditions to minimise the impact of the proposal on the character and appearance of the wider area. These conditions were added to the decision notice as conditions 4 and 5. (Please see

above Theydon Bois Parish Council's comments for full wording). Condition 4 required an evergreen hedged to be planted and Condition 5 of this permission prevented the installation of railings above the brick wall.

This decision permitted a brick wall which had a height of 0.82m with 1.35m high brick piers set around 3.4m apart. Behind this front boundary was a 1.4m green hedge. Condition 5 of this permission prevented the installation of railings above the brick wall.

The applicant however installed a front boundary treatment which did not accord with this permission and as a result of enforcement action now seeks retrospective permission for the front boundary treatment as installed. Its design includes brick piers that have a maximum height of 1.45m, a 1.35m high gate made up simple black painted railings, the brick wall inset between the piers has been reduced in height to between 0.41m and 0.61m and is now topped with simple black painted railings resulting in this element having a maximum total height of 1.42m.

Whilst the boundary treatment installed differs significantly from that which was previously permitted and is a clear breach of the previous consent, the scheme presented must be assessed on its own merits. The reduction in the height of the wall and installation of railings has resulted in a front boundary treatment which is less solid and still allows views of the dwelling to be had through the railings.

Although not currently installed, the application continues to propose the provision of a 1.4m hedge behind the wall which will help soften its appearance once planted. The planting of this hedge continues to be considered necessary and therefore a condition is recommended to ensure that this part of the permission is implemented.

Whilst the front boundary treatment of other properties along Forest Drive predominately consists of low-level brick walls or verdant frontages, there are some examples of similar boundary treatments to this, including two doors down at number 42 Forest Drive (granted consent under EPF/1492/17), which benefits from a similar gate and high walls with hedging behind, although this does not include railings atop the wall; and at 84 Forest Drive Theydon Bois (granted consent under EPF/0790/14). Plans indicate that the piers, gates, railings and wall at 84 Forest Drive have dimensioned height of 1.45m, however due to the drop in land levels from the west to the east of the site, the maximum height of this front boundary treatment is 1.52m. To a degree, the boundary treatments at numbers 49 and 70 Forest Drive are also similar, although these are more historic examples and do not include gates. Nonetheless, these permissions are a material consideration in the determination of this application.

Although the previously approved boundary treatment is preferable, in order to restrict the use of railings it must be demonstrated that this restriction is necessary and relevant. Given that there are other examples of similar front boundary treatment in Forest Drive, it is considered unreasonable to not allow the applicant to do the same. However, as was the case at number 42 Forest Drive, and as previously determined on this site, it is necessary to provide planting behind the wall in order to soften its appearance.

It is for these reasons considered that subject to the installation of an evergreen hedge, the development will not have a significant detrimental impact on the distinctive local character of this street. The proposal is therefore considered to comply with the requirements of CP2, CP7 and DBE10 of the Local Plan and DM9 of the SVLP.

### Neighbour Amenity

There is no harm to the living conditions of neighbours by this application and therefore accords with DBE 9 of the Local Plan.

## Highway Safety

The proposal will not adversely impact on highway safety and therefore accords with ST4 of the Local Plan.

### **Conclusion:**

Given the above, and subject to the planting of suitable landscaping, the railings, piers, wall and gate are considered to be acceptable in design. It is therefore recommended that planning permission is granted.

***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: Sukhi Dhadwar  
Direct Line Telephone Number: 01992 564597***

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

### **Conditions: (3)**

- 1 The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

*2056 04 B, 2056 07, cover letter.*

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

- 2 Within six months of the date of this decision notice, a 1.4m high evergreen hedge shall be planted in accordance with the details shown on plan no. 2056 04B. If within a period of five years from the date of planting any part of the hedges, or replacement, is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another hedge of the same species and size as that originally planted shall be planted at the same place.

To safeguard the visual amenities of the locality, in accordance with the guidance contained within the National Planning Policy Framework and policy CP2 of the adopted Local Plan and Alterations.

- 3 Other than shrub or tree planting, the front boundary railings and gates hereby permitted shall not be infilled or enclosed by, or supplemented by any fence, screen or other means of enclosure without prior consent from the local planning authority through submission of a planning application.

Reason: To ensure the development has a satisfactory appearance in the street scene, in accordance with policy CP2 (iv) and (v) of the adopted Local Plan 1998 & 2006, Policies DM9 of the Local Plan Submission Version 2017, and the NPPF.

**Informatives: (1)**

- 4 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.