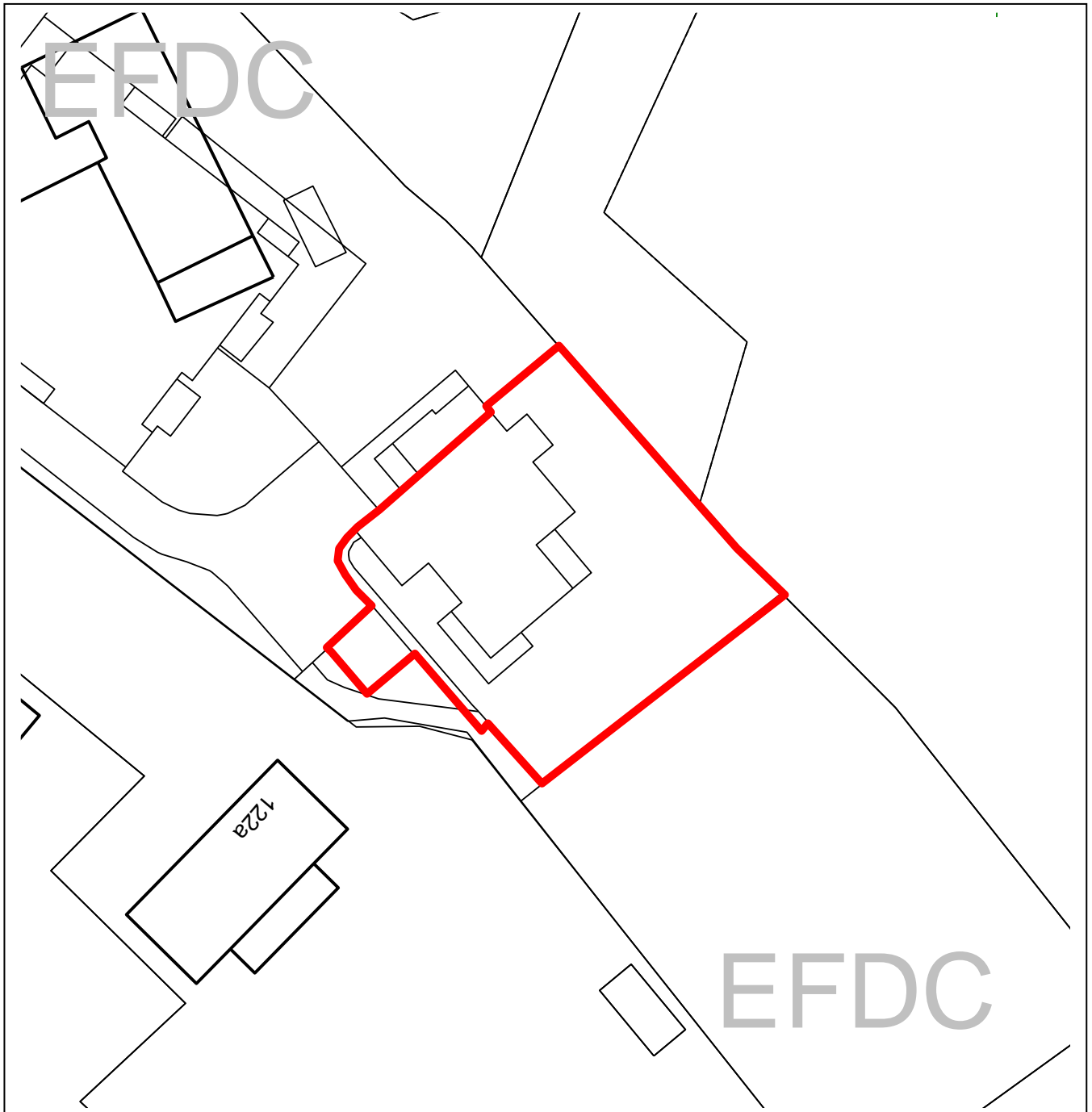




# Epping Forest District Council



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Application Number:	EPF/2764/19
Site Name:	11 Key West Court Block B 120 High Road Chigwell Essex IG7 5AR
Scale of Plot:	1:500

<b>APPLICATION No:</b>	EPF/2764/19
<b>SITE ADDRESS:</b>	11 Key West Court Block B 120 High Road Chigwell Essex IG7 5AR
<b>PARISH:</b>	Chigwell
<b>WARD:</b>	Chigwell Village
<b>APPLICANT:</b>	Mr & Mrs Atkin
<b>DESCRIPTION OF PROPOSAL:</b>	Proposed erection of an open sided car port over car parking spaces.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

**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=630498](http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=630498)

## **CONDITIONS**

- 1 The development hereby permitted will be retained strictly in accordance with the approved drawings numbers: 370-PL-01 to 03, and 1024/190801
- 2 The open sides of the car port hereby permitted shall be permanently retained in that form while the structure remains in situ, no form of enclosure, including any fencing or other means of enclosure shall be inserted into or around the structure without the prior consent of the Local Planning Authority.

*This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than five objections are received (or in cases where less than 5 were consulted, a majority of those consulted object) on grounds material to the planning merits of the proposal (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

### **Description of Site:**

The application site lies within a recently constructed flatted development on the south-east side of the High Road, around 100m south of Chigwell Station. The site comprises two buildings; a frontage block of part two, part three storeys containing 10 flats with an underground car park, and a two-storey detached building to the rear comprising two flats. The site access is at the southern end of the plot.

The site lies in a predominantly residential area comprising a mix of accommodation types. A wide grass verge runs along the site frontage outside the site boundary.

### **Description of Proposal:**

The application seeks to retain a car port structure erected on the south-west side of the rear block, over the two parking spaces allocated to the ground floor flat therein.

The car port comprises of an open timber frame structure 5.6m deep and 5.4m wide. It has a half-hipped roof finished in black slate 2.3m high at eaves and 3.6m high at ridge, and is set around 3m from the closest part of the rear building and in excess of 20m from the frontage building.

### **Relevant History:**

Redevelopment of the site which originally contained a single dwelling into the present form was allowed on appeal in 2015.

### **Policies Applied:**

#### *Adopted Local 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
DBE2	Effect on neighbouring properties
DBE9	Loss of Amenity
DBE10	Residential Extensions

#### *NPPF (February 2019):*

The current version of the National Planning Policy Framework ("the Framework" or "NPPF") was published in February 2019. It provides the framework for producing Local Plans for housing and other development, which in turn provide the policies against which applications for planning permission are decided.

Reflecting the proper approach identified in the previous section of this Report, the NPPF explains (at paragraph 2) that:

"2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.<sup>2</sup>"

Paragraph 11 of the NPPF concerns the presumption in favour of sustainable development and states (so far as relevant):

"Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; 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."

Paragraph 11 d) ii. is often referred to as the 'tilted balance'.

In summary, the effect of footnote 7 is that where a local planning authority is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the NPPF, or where the Housing Delivery Test indicates that the delivery of housing was substantially below (that is less than 75% of) the housing requirement over the previous three years, "the policies which are most important for determining the application" are deemed to be "out-of-date", so that the presumption in favour of sustainable development applies and planning permission should be granted unless either sub-paragraph (i) or (ii) is satisfied.

For the purposes of sub-paragraph (i) of paragraph 11, footnote 6 lists the policies in Framework (rather than those in development plans) that protect areas or assets of particular importance including: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, or Local Green Space; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63 of the NPPF); and areas at risk of flooding.

The presumption in favour of sustainable development does not, however, change the statutory status of the development plan as the starting point for decision making. In accordance with paragraph 213 of the NPPF and subject to paragraph 11 d) and footnote 7 referred to above, policies in the development plan should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Rather, due weight should be given to such policies according to their degree of consistency with the NPPF; in other words the closer the policies in the development plan to the policies in the NPPF, the greater the weight that may be given to them)

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

- 2 – Achieving sustainable development – paragraphs 10, 12
- 5 – Delivering a sufficient supply of homes
- 12 – Achieving well designed places – paragraphs 128, 130
- 16 – Conserving and enhancing the historic environment – paragraphs 189 -196, 198, 199

*Epping Forest District Local Plan (Submission Version) 2017:*

On 14 December 2017, the Council resolved to approve the Epping Forest District Local Plan (2011-2033) – Submission Version ("LPSV") for submission to the Secretary of State and the Council also resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

The Council submitted the LPSV for independent examination on 21 September 2018. The Inspector appointed to examine the LPSV ("the Local Plan Inspector") held examination

hearings between 12 February and 11 June 2019. As part of the examination process, the Council has asked the Local Plan inspector to recommend modifications of the LPSV to enable its adoption.

During the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Inspector on the basis that they would be subject to public consultation in due course. Following completion of the hearings, in a letter dated 2 August 2019, the Inspector provided the Council with advice on the soundness and legal compliance of the LPSV ("the Inspector's Advice"). In that letter, the Inspector concluded that, at this stage, further Main Modifications (MMs) of the emerging Local Plan are required to enable its adoption and that, in some cases, additional work will need to be done by the Council to establish the precise form of the MMs.

Although the LPSV does not yet form part of the statutory development plan, when determining planning applications, the Council must have regard to the LPSV as material to the application under consideration. In accordance with paragraph 48 of the Framework, the LPAs "may give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- b) 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
- c) 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).<sup>22</sup>"

Footnote 22 to paragraph 48 of the NPPF explains that where an emerging Local Plan is being examined under the transitional arrangements (set out in paragraph 214), as is the case for the LPSV, consistency should be tested against the previous version of the Framework published in March 2012.

As the preparation of the emerging Local Plan has reached a very advanced stage, subject to the Inspector's Advice regarding the need for additional MMs, significant weight should be accorded to LPSV policies in accordance with paragraph 48 of Framework.

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:

<b>POLICY</b>	<b>WEIGHT AFFORDED</b>
DM9 – High quality design	Significant
DM10 – Housing design and quality	Significant

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

Date of site visit: 10 January 2019

Number of neighbours consulted: Thirteen

Site notice posted: No, not required

Responses received: Six responses have been received from neighbours at 2, 3, 4, 5, 10 and 12 KEY WEST COURT raising a number of issues:

- Loss of outlook towards trees and secret garden at the rear (described by one resident as 'forest like views')
- The appearance of the structure – the surface areas are free from structures making this car port unduly prominent and incongruous, which sets a precedent for other structures.

- The visual impact arising from the proximity of the structure to no. 12 (the first floor flat in the rear block).
- Other matters not material to the determination of the application around fire risk, possible encroachment and breach of lease conditions (matters for those with a legal interest), and that the works are complete (not relevant to the planning merits).

Parish Council: Chigwell Parish Council had no objection to the application.

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

The structure is generally hidden from the street by the frontage block, and from neighbouring houses by established trees and shrubs. Thus any impact from the structure will arise within the site boundaries.

Viewed in isolation, the car port is evidently constructed in good quality materials and to a high standard. Thus there are no objections to the built form in design terms.

Issues raised by neighbours appear to be more finely balanced. The first floor flat in the rear block has a wrap-around corner balcony, part of which faces onto the structure, and two Juliet balconies located on the side of the flat which have retained outlook. Introducing built form where none currently exists clearly has a visual impact, but in this case, it is not considered to cause significant harm – the eaves of the building is below the level of the balconies, and the structure is a minimum of 3m from the nearest point of the corner balcony. There is therefore neither obstruction to the outlook from the first floor flat nor any impact on light or creation of overbearingness due to its scale or height. The views of the trees and landscape adjacent to but outside of the site are not significantly affected but in any event loss of a view is not a material planning consideration.

Residents in the main block lie more than 20m from the structure and although the car port is built on higher ground, this provides ample separation. In terms of the general outlook from rear windows, there are fences beyond the car port screening direct views over the shared garden at the rear, and tree canopies remain visible at higher levels.

It is noted that residents raise concerns at the development setting a precedent, but it is noted that most properties in the front block appear to have access to the underground car park. Any other similar development would have to be considered on its merits and in relation to the immediate surroundings; the siting of this development appears unique within the site.

### **Conclusion:**

The application should be considered solely on its planning merits. Matters raised in respect of the private legal rights of the leaseholders, and the early carrying out of the development should not be given any weight.

The structure is considered of a satisfactory design and finish in the overall context of the site. Introducing a structure where none exists has an impact, but due to the siting, away from the flatted blocks, this impact is not considered to be so substantial that it would make the development unacceptable.

As such, the development is considered to be consistent with policy objectives and could be approved. A condition is appropriate to prevent the infilling of the open sides without consideration of whether such a change in the character of the structure would have a significantly greater impact.

***Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the Monday preceding the meeting at the latest:***

**Planning Application Case Officer: Ian Ansell**  
**Direct Line Telephone Number: 01992 564481**

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