

**Report to District Development
Management Committee**



Report Reference: *EPF/2007/20*
Date of meeting: *20 January 2021*

**Epping Forest
District Council**

Address: Highbury Cottage 51 Coppice Row, Theydon Bois, Epping, CM16 7DL

Proposal: Rear first floor infill to extend existing bedroom

Responsible Officer: Muhammad Rahman (01992 564415)

Democratic Services: Gary Woodhall (01992 564470)

Recommendation(s):

This application carried an officer recommendation to grant planning permission when reported to the Area Plans Sub-Committee East at their meeting on 25 November 2020. The application was passed on a majority vote for approval subject to the following conditions;

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted will be completed and retained strictly in accordance with the approved drawings numbers: 100/001, 100/002, 100/003, 100/004, 100/005, 100/200 and 100/201. 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 match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority. Reason: To safeguard the visual amenities of the locality, in accordance with policy DBE10 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2019.

Following the vote, a motion for the case to be considered by Members of the District Development Management Committee was passed and backed by four Members of the host Committee. Thus, this application has been included within the agenda of this committee.

Members attention is drawn to the fact that the Local Planning Authority is legally required to consider any material considerations during the application stage right until the final decision is issued, although on condition that they are known to the Decision Maker prior to the final decision being made. Thus, for clarity, if the bathroom in question as set out in the officers report has been fully converted into a bedroom, then Members would be legally required to consider the impact to this bedroom from the proposed development. (see [*R \(on the application of Kides\) v South Cambridgeshire District Council and others, 9 October, 2002 \(Court of Appeal\)*](#).) As, stated during the meeting, If this is the case than it would not gain officer support.

The previous officer's report has been reproduced below.

This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Site and Surroundings

The site comprises of a semi-detached dwelling, located within a built-up area of Theydon Bois. It is not listed nor in a conservation area, nor the Green Belt.

Proposal

The proposal is for a rear first floor infill to extend existing bedroom.

Relevant Planning History

No relevant history.

Development Plan Context

Local Plan and Alterations 1998 & 2006 (LP)

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
DBE9	Loss of Amenity
DBE10	Design of Residential Extensions

National Planning Policy Framework 2019 (Framework)

The Framework 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.

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

Paragraphs 124 & 127

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 14th 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 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.

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 table lists the LPSV policies relevant to the determination of this application and officers' recommendation regarding the weight to be accorded to each policy.

Policy	Weight afforded
SP1 Presumption in Favour of Sustainable Development	Significant
DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant

Summary of Representations

Number of neighbours consulted: 3. 1 response(s) received

53 COPPICE ROW - Objections – Summarised as:

- Loss of light; and
- Overlooking.

THEYDON BOIS PARISH COUNCIL – Objection - The Planning Committee noted that the application site is one of a pair of semi-detached properties and, whilst the plans submitted do not provide a clear indication of the structure of the rear façade of the two dwellings (which we perceive should have been included), the Council was supplied with photographs of the site (as submitted to EFDC by the adjoining neighbour).

It was clear from these that, by infilling the space between the two properties, to create a new party wall on the first floor, the proposed structure would cut the 45° line from the outlook of the bedroom window of the adjoining dwelling, such that the close proximity of that flank wall would afford a detrimental sense of enclosure, which could appear overbearing, together with the likely reduction of natural light to the bedroom. It was considered that these effects would have a significantly adverse impact on the amenity of the neighbouring property, in conflict with Policies DBE9 and DBE10 of the Current Local Plan, and Policies DM9 and DM10 of the New Local Plan (2011-2033). The Committee was unanimous in its response.

Planning Considerations

The main issue for consideration in this case is the impact on the living conditions of 53 (Tenby) Coppice Row.

Living Conditions

The room in question as raised by the Objector and the Parish Council is in fact a bathroom window and not a bedroom. Bathrooms are non-habitable rooms and are not afforded protection against loss of day and sunlight. Whilst the proposed development will protrude beyond the 45-degree line when measured from the bathroom window, it does not justify a sound reason for refusal based on loss of light to a non-habitable room. Furthermore, there are no flank windows proposed so there would be no material loss of privacy from overlooking to No. 53, and views from the proposed rear window would be no different than the existing two first floor rear windows.

Accordingly, the proposed development will not result in a material impact to 53 Coppice Row that would make their living conditions unbearable from the proposed development and is therefore in accordance with policies CP7 and DBE9 of the LP, policy DM9 (H) of the LPSV and paragraph 127 (f) of the Framework.

Other Considerations

There are no design issues with the proposed development.

Conclusion

For the reasons set out above having regard to all matters raised, it is recommended that conditional planning permission be 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: Muhammad Rahman
Direct Line Telephone Number: 01992 564415**

or if no direct contact can be made please email:

contactplanning@eppingforestdc.gov.uk