



# Epping Forest District Council

# EFDC



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Application Number:	EPF/1289/22
Site Name:	41 Dukes Avenue Theydon Bois CM16 7HQ

# OFFICER REPORT

**Application Ref:** EPF/1289/22  
**Application Type:** Full planning permission  
**Applicant:** K Britton  
**Case Officer:** Muhammad Rahman  
**Site Address:** 41 Dukes Avenue, Theydon Bois, Epping, CM16 7HQ  
**Proposal:** Existing two storey side extension to be replaced with a new three bedroom detached dwelling  
**Ward:** Theydon Bois  
**Parish:** Theydon Bois  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d0000001CQ>  
**Recommendation:** Refuse

## REPORT TO DISTRICT DEVELOPMENT MANAGEMENT COMMITTEE

**Date of Meeting:** 16th November 2022

**Democratic Services Officer:** Gary Woodhall | 01992 564470

### Recommendations:

1. This application carried an officer recommendation to grant conditional planning permission when reported to the Area Planning Sub-Committee East at their meeting on 2nd November 2022.
2. A motion for refusal was carried forward with 8 Members voting for the refusal & 7 against.
3. Under the minority member rule, the Committee deferred this item to DDMC as per the Committee recommendation for a refusal for the sole reason below;
  - a. The proposal, by reason of its form, scale, and massing, fails to relate positively to the locality or make a positive contribution to Theydon Bois, contrary to Policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, Policy DM9 (A – i & ii) & (D – ii & iv) of the Local Plan Submission Version 2017, and Paragraphs 126 & 130 of the NPPF 2021.
4. Whilst not proposed by Members, should the application be refused then the following reason will also need to be added;
  - b. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1 and CP6 of the adopted Local Plan 1998 & 2006, Policies DM2 and DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.
5. The original officer report has been amended to include the broader planning history.

### ***Officer Report***

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 residential garden space for 41 Dukes Avenue, located on the corner of Dukes Avenue and Heath Drive. It is not listed, nor within a conservation area, the Green Belt, or a flood zone. No protected trees lie within the site.

### **Proposal**

The proposal is for an existing two storey side extension to the host house to be demolished and a new three-bedroom detached dwelling constructed.

This is a revised scheme to EPF/0959/20.

### **Relevant Planning History**

EPF/2123/11 - Two storey side extension - Withdrawn

EPF/0146/12 - Two storey side extension. (Revised application) – Refused & Dismissed on Appeal

EPF/1102/12 - Two storey side extension - Approve with Conditions

EPF/1577/12 - Application for approval of details reserved by conditions 2 'Materials' and 3 'Hard and Soft Landscaping' of planning permission EPF/1102/12. (Two storey side extension.) – Approve

EPF/1922/12 - Two storey side extension. (Amended application) - Approve with Conditions

EPF/1769/14 - Single storey side garage extension - Refuse

EPF/2548/14 - Certificate of lawful development for a proposed garage - Lawful

EPF/0959/20 - Demolition of an existing garden room & erection of a x1 no. bedroom bungalow – Refused on Design, Impact on Neighbours and EFSAC.

EF\2022\ENQ\00147 – Post-application for a proposed removal of two storey side extension to existing dwelling to facilitate the development of a new detached three-bedroom dwelling - Advice Given

### **Development Plan Context**

Local Plan & 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  
DBE1 Design of New Buildings  
DBE8 Private Amenity Space

DBE9 Loss of Amenity  
ST4 Road Safety  
ST6 Vehicle Parking  
LL10 Adequacy of provision for landscape retention  
LL11 Landscaping schemes

#### National Planning Policy Framework 2021 (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 126 & 130  
Paragraph 180

#### 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.

Following the Examination Hearing Sessions for the emerging Local Plan, the Council has prepared a number of changes, known as Main Modifications, to the Epping Forest District Local Plan Submission

Version (2017) to address issues of soundness and/or legal compliance identified by the Inspector. These are put forward without prejudice to the Inspector's final conclusions on the Plan.

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 Main Modifications, the highest weight should be afforded to LPSV policies in accordance with paragraph 48 of Framework. The following policies below are relevant to the determination of this application;

SP2 Spatial Development Strategy 2011-2033  
H1 Housing Mix and Accommodation Types  
T1 Sustainable Transport Choices  
DM2 Epping Forest SAC and the Lee Valley SPA  
DM3 Landscape Character, Ancient Landscapes and Geodiversity  
DM5 Green and Blue Infrastructure  
DM9 High Quality Design  
DM10 Housing Design and Quality  
DM15 Managing and Reducing Flood Risk  
DM16 Sustainable Drainage Systems  
DM19 Sustainable Water Use  
DM21 Local Environmental Impacts, Pollution and Land Contamination  
DM22 Air Quality

### **Summary of Representations**

Number of neighbours Consulted: 13. 2 response(s) received  
Site notice posted: No, not required

43 DUKES AVENUE & 7 WOODLAND WAY – Objections - Summarised as:

- Impact on Street Trees;
- Unsustainable; and
- Cramped development / Out of character.

THEYDON BOIS PARISH COUNCIL – The Planning Committee is of the opinion that this proposal represents a cramped form of development, due to the scale of the proposed new dwelling in the context of its proposed plot size. Sited on a prominent open corner, its prominence exacerbated when viewed down from the raised Heath Drive, the proposal would fail to relate positively to its immediate setting, and thereby cause harm to the established character and appearance of the area.

The application site is a semi-detached two storey dwelling with a two-story side extension, situated on the western side of Dukes Avenue at its junction with Heath Drive. Traditionally, corner sites in Theydon Bois such as this provide visual gaps, designed to preserve the characteristic openness of the surrounding area. It is considered that this proposal fails to complement its prominent position in the street scene.

In the Committee's opinion the site is too confined for an additional two storey detached dwelling. The proposed new dwelling would appear to be squeezed into too small a space and to be at odds with, and so disrupt, the established pattern of development.

Contrary to the Planning Statement submitted with the application, the Committee does not agree that this proposal has parallels with a previous development on the opposite corner of Dukes Avenue, due to the fact that that pair of semi-detached houses – being 39 and 39A Dukes Avenue, which replaced a detached dwelling – are indistinguishable from the predominantly semi-detached pattern of development of the surrounding locality. A few detached dwellings are present here and there in Dukes Avenue, and in surrounding residential roads, but these are in the minority and none are sited on prominent corner

positions. The planning history for this property includes an application for a two-storey side extension – EPF/0146/12 – which was dismissed at Appeal. In the dismissal of this Appeal (APP/J1535/D/12/2173698) the Inspector found:

“The appeal site is situated on a prominent open corner, which creates a visual gap in the built form. Its prominence is exacerbated when viewed down from the raised Heath Drive. I consider this gap makes an important contribution to the overall character and appearance of the area.” Further that, “... the open aspect of the corner location would be unacceptably eroded, to the detriment of the character and appearance of the surrounding area ... the proposal would have an adverse effect on the character and appearance of the surrounding area.”

A more subservient side extension development sited further away from the boundary with Heath Drive was subsequently approved, that development being significantly stepped back from the building line to preserve the openness of its prominent corner site. Consequently, when approaching this corner of Dukes Avenue from Heath Drive, the visual gap creates a pleasant open aspect.

The siting of three verge trees adjacent to the side boundary of 41 Dukes Avenue is mirrored by three trees on the opposite side of Heath Road. These trees make a positive contribution to the street scene and to spatial perception of the surrounding built environment. There are also two verge trees adjacent to the front boundary of 41 Dukes Avenue. Taken together, these five trees bordering 41 Dukes Avenue are of significant visual importance in the street scene, and their retention and protection are necessary to ensure continuity of symmetry within the streetscene.

The Committee and the Theydon Bois Tree Warden are disappointed to note that these trees are not shown on the proposed plans submitted with this application. Two of the five trees are relatively immature and vulnerable to damage, and it would seem likely that one tree might need to be removed if the proposal went ahead. The necessity of removing any tree has not been acknowledged by the application: in answer to the question on the application form “Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character?”, the ‘NO’ box is ticked. The street trees in Theydon Bois are highly important to the local community, and any removal will interrupt the symmetry of verge plantings. There is no plan in place by Essex County Council for replacement planting of verge trees.

In conclusion, the Committee feels that the proposal is inappropriate for its prominent position, would introduce a cramped form of development to the proposal site, would be out of keeping with the prevailing form of development, and fails to safeguard verge trees – in conflict with Policies CP2(iv), CP7 and DBE1 of the Epping Forest District Local Plan 1998 with alterations of 2006 (the Current Local Plan), Policy DM9 of the Epping Forest District Local Plan, Submission Version 2017 (the New Local Plan), and provisions of the National Planning Policy Framework, 2021.

Notwithstanding the above, should EFDC recommend that this planning application be granted, the Planning Committee wishes to see the following three Conditions attached to any Grant of Planning Permission:

Condition 1: Removal of permitted development rights, with respect to both dwellings, under Schedule 2, Part 1, Classes A, AA, B and E of the General Permitted Development Order (‘GPDO’), 2015. Reason: To enable the Local Authority to manage any future development proposals, in view of the reduced size of the donor property site, and the confined size of the proposed new dwelling site.

Condition 2: Removal of permitted development rights, with respect to both dwellings, under Schedule 2, Part 2, Classes A and B of the GPDO, 2015 (fences and crossovers). Reason: To protect the five street trees situated on verges adjacent to the front and side boundaries of the site, on Dukes Avenue and Heath Drive, and avoid any further sub-division of the application site other than by structures necessary to create the two new adjacent plots, as outlined on approved plans.

Condition 3: Strict adherence to an approved Tree Protection Plan, to be submitted and approved by the Local Authority prior to any works being carried out. Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policy LL10 of the adopted Local Plan 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

## **Planning Considerations**

The main issues for consideration in this case are:

- a) The impact on the character and appearance of the locality;
- b) Highway safety and parking provision;
- c) The impact to the living conditions of neighbours;
- d) Standard of Accommodation for future occupiers; and
- e) The impact on the Epping Forest Special Area of Conservation.

The proposal follows on from a recent post-application exercise and officer recommendations are present within the scheme.

### *Character and Appearance*

The donor site is fairly larger than neighbouring plots which are slightly narrower. Furthermore, the building typology on this street is predominantly pair of semis, with the distinct cat-slide feature and diamond shape window to the front elevations, although there are few detached dwellings within this street and the wider locality. Taking the above points into account, and the scale, design and siting of the proposed dwelling fronting Dukes Avenue, including the visual gap retained on both sides and the matching of the above mentioned distinct cat-slide feature and diamond shape window to the front elevation, the proposal, would have a neutral impact to the street scene and wider area. The proposed building would also follow the rear/front building line of neighbouring buildings.

Overall, the application site would be similar to other neighbouring plots on this street, so, the proposal would not appear as a cramped form of development, nor harmful overdevelopment of the site.

### *Highway safety and Parking Provision*

The Highways officer has raised no objections and there is sufficient space to park a couple cars on the donor site, and the application site, although these additional spaces are located to the rear of the property, off Heath Drive.

### *Living Conditions of Neighbouring Properties*

There will be no material impact to the occupiers of the host house, given that the proposed dwelling does not protrude past their front and rear building line, in addition to the visual gap of some 1.2m from the common boundary.

A condition requiring the flank window serving bedroom 1 of the proposed dwelling to be of obscure glazed has been added. This is to prevent harmful overlooking to the habitable room (Bedroom 2) of the host house, as their only window is on the flank elevation directly facing the window mentioned above.

There are no impacts to other neighbouring properties, given the siting of the proposed dwelling on a corner plot, and the significant separation distance.

### *Standard of Accommodation*

The proposed development would have sufficient internal space for a 3 bedroom-5 person dwelling at some 108 m<sup>2</sup> in accordance with the National Described Space Standard as set out in Policy DM10 of the LPSV. The Policy requirement is 93 m<sup>2</sup>.

Both the host house and proposed would have a good level of garden space, not dissimilar to other neighbouring plots in the locality.

Too add, given the orientation of the proposed dwelling facing northeast, it would receive sufficient day & sunlight, including that of the host house. It would also have a reasonable level of outlook, within this built up urban area.

### *Epping Forest SAC (EFSAC)*

A significant proportion of the Epping Forest Special Area of Conservation (the EFSAC) lies within the Epping Forest District Council administrative area. The Council has a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) to assess whether the development would have an adverse effect on the integrity of the EFSAC. In doing so the assessment is required to be undertaken having considered the development proposal both alone and in combination with other Plans and Projects, including with development proposed within the Epping Forest Local Plan Submission Version (LPSV).

The Council published a Habitats Regulations Assessment in January 2019 (the HRA 2019) to support the examination of the LPSV. The screening stage of the HRA 2019 concluded that there are two Pathways of Impact whereby development within Epping Forest District is likely to result in significant effects on the EFSAC. The Pathways of Impact are effects of urbanisation with a particular focus on disturbance from recreational activities arising from new residents (residential development only) and atmospheric pollution as a result of increased traffic using roads through the EFSAC (all development). Whilst it is noted that the independent Inspector appointed to examine the LPSV, in her letter dated 2 August 2019, raised some concerns regarding the robustness of elements of the methodology underpinning the appropriate assessment of the LPSV, no issues were identified in relating to the screening of the LPSV or the Pathways of Impact identified. Consequently, the Council, as Competent Authority under the Habitats Regulations, is satisfied that the Pathways of Impact to be assessed in relation to this application pertinent to the likely significant effects of development on the EFSAC alone and in-combination with other plans and projects are:

- 1) Recreation activities arising from new residents (recreational pressures); and
- 2) Atmospheric pollution as a result of increased traffic using roads through the EFSAC.

### *Stage 1: Screening Assessment*

This application has been screened in relation to both the recreational pressures and atmospheric Pathways of Impact and concludes as follows:

- 1) The site lies within the Zone of Influence as identified in the Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation' (the Interim Approach) adopted by the Council on 18 October 2018 as a material consideration in the determination of planning applications. In addition, the site lies within the parish of Theydon Bois. Consequently, the development would result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.
- 2) The development has the potential to result in a net increase in traffic using roads through the EFSAC.



Consequently, the application proposal would result in a likely significant effect on the integrity of the EFSAC in relation to both the recreational pressures and atmospheric pollution Pathways of Impact.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to both recreational pressures and atmospheric pollution.

## Stage 2: 'Appropriate Assessment'

### Recreational Pressures

The application proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the Interim Approach and identification of Infrastructure Enhancement Projects in the Council's Green Infrastructure Strategy, has provided a strategic, district wide approach to mitigating recreational pressures on the EFSAC through the securing of financial contributions for access management schemes, monitoring proposals and Infrastructure Enhancement Projects specifically related to development within the parishes of Loughton, Buckhurst Hill and Theydon Bois. Consequently, this application can be assessed within the context of the Interim Approach and the Green Infrastructure Strategy. The applicant has agreed to make a financial contribution in accordance with the Interim Approach and the Green Infrastructure Strategy. Consequently, the Council is satisfied that the application proposal would not have an adverse effect on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation.

### Atmospheric Pollution

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of an Interim Air Pollution Mitigation Strategy (IAPMS), has provided a strategic, district wide approach to mitigating air quality impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the IAPMS. The applicant has agreed to make a financial contribution in accordance with the IAPMS. In addition, the application will be subject to planning conditions to secure measures as identified in the IAPMS. Consequently, the Council is satisfied that the application proposal would not have an adverse impact on the integrity of the EFSAC subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions.

### *Other Considerations*

Officers note the concerns regarding the potential impact on the street trees adjacent the site, however, these trees lie outside the red line application site and are not within the control of the applicant. For clarity, there are no protected trees on or adjacent the site. They are however, maintained by the Council, so should there be any material impact to them, then other measures outside the Planning Regime can also be taken to remedy the action.

In any case, a tree protection condition has been added to ensure there is no damage to the street trees during the construction phase.

### *Appeal Decision*

This was a key point of discussion at the meeting. With regards to the weight to be afforded to a previous appeal decision relating to EPF/0146/12, officers draw Members attention to the following;

1. It relates to a two-storey side extension. The proposal is for a new detached dwelling so they are not comparable schemes.

2. The Appeal decision predates the publication of the first National Planning Policy Framework 2012, which as Members will know there is a strong presumption in favour of sustainable development as set out below;

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
  - i. 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

3. Members will note that the adopted Local Plan is the Development Plan, which is out of date. The LPSV whilst a material consideration does not form part of the Development Plan for the purposes of the NPPF.

4. Therefore, the tilted balance applies and the proposal will contribute to the Councils housing supply, and provide albeit limited social and economic benefits through its construction and occupation.

5. Therefore, for the above reasons the appeal decision is afforded limited weight.

## **Conclusion**

In summary, the proposal has overcome the previous reasons for refusal attached to EPF/0959/20, and Officer recommendations from the recent post-application exercise are present within the scheme.

For the reasons set out above, having regard to all the matters raised, it is recommended that conditional planning permission be granted subject to a s106 Legal agreement to secure contributions towards the EFSAC including monitoring fees.

## **Alternative Recommendation**

If Members are minded to approve the application then Officers recommend consent is granted with the following conditions/informatives below;

Conditions: (14)

1. The development hereby permitted shall begin not later than three years from the date of this decision. Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 21082\_001, 21082\_002, 21082\_003, 21082\_101, 21082\_102, and 21082\_103. Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.
3. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been

submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents. Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policy LL10 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF.

4. Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development. Reason: To ensure satisfactory provision and disposal of surface water in the interests of Land Drainage, in accordance with policy RP3 of the adopted Local Plan and Alterations 1998 & 2006, policies DM16 and DM18 of the Local Plan Submission Version 2017, and the NPPF.

5. Prior to first occupation, the applicant/developer shall ensure that each dwelling has been provided with the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service. Reason: To ensure the development contributes to supporting improved digital connectivity throughout the District and supports the wider aims and objectives for reducing car-led air pollution, improving the health and wellbeing of residents and visitors including the EFSAC, in accordance with policy CP1 of the adopted Local Plan 1998 & 2006, Policies D5, DM2, DM9, DM10 & DM22 of the Local Plan Submission Version 2017, and the NPPF.

6. Prior to any above groundworks, details and location of the parking spaces (including garages) equipped with active Electric Vehicle Charging Point(s) shall have been submitted to and approved in writing with the Local Planning Authority (LPA), unless otherwise agreed in writing with the LPA. The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation. The details must include details as follows:

- Location of active charging infrastructure; and
- Specification of charging equipment to be used.

Reason: To ensure the development contributes to supporting the Council towards a low carbon future and the wider aims and objectives for reducing car-led air pollution in regard to the EFSAC, in accordance with policy CP1 of the adopted Local Plan 1998 & 2006, Policies T1 & DM22 of the Local Plan Submission Version 2017, and the NPPF.

7. Prior to first occupation of the development, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the Local Planning Authority. The ecological value shall be quantified using the Biodiversity Impact Assessment Calculator (BIAC) where appropriate. The scheme shall be implemented in full prior to the occupation of the development hereby approved. Reason: To maintain and improve the biodiversity of the site and to mitigate any impact from the development hereby approved, in accordance with policy DM1 of the Local Plan Submission Version 2017, and the NPPF.

8. Prior to first occupation of the building hereby permitted the window(s) in the flank elevation (facing the host house) at first floor level shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of that/those window[s] 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. Reason: To prevent overlooking and loss of privacy to the occupants of neighbouring properties, in accordance with policy DBE9 of the adopted Local Plan and Alterations 1998 & 2006, policy DM 9 of the Local Plan Submission Version 2017, and the NPPF.

9. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day. Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability and in accordance with policy CP2 of the adopted Local Plan and Alterations 1998 & 2006, policy DM19 of the Local Plan Submission Version 2017, and the NPPF.

10. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building. Reason: To ensure a satisfactory appearance in the interests of visual amenity of the area, in accordance with policy DBE1 of the adopted Local Plan 1998 & 2006, and Policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Classes A, AA, B & E of Part 1 to schedule 2 shall be undertaken, without the prior written agreement of the Local Planning Authority. Reason: To ensure further consideration is given with regards to the effect on the character and appearance of the area and living conditions on adjoining properties, in accordance with policies CP2, CP7, DBE1 & DBE9 of the adopted Local Plan 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

12. Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed. Reason: To avoid the deposit of material on the public highway in the interests of highway safety, in accordance with policy ST4 of the adopted Local Plan and Alterations 1998 & 2006, policy T1 of the Local Plan Submission Version 2017, and the NPPF.

13. No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays. Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours and in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, and policies DM9 and DM 21 of the Local Plan Submission Version 2017, and the NPPF.

14. An assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced) shall be undertaken. If any contamination is found then the site shall be remediated. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. Confirmation of compliance with the requirements of this condition shall be submitted in writing to the Local Planning Authority prior to occupation of the development hereby approved. Reason: It is the responsibility of the developer to ensure the safe development of the site and to carry out any appropriate land contamination investigation and remediation works. The condition is to ensure the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development is carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy RP4 of the adopted Local Plan and Alterations 1998 & 2006, policy DM21 of the Local Plan Submission Version 2017, and the NPPF.

Informatives: (3)

15. 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.

16. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO3 - Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD.

17. This permission is also subject to conditions and/or covenants of an accompanying Section 106 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: Muhammad Rahman on 01992 564415 or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***

#### **Refusal Reason(s): (2)**

- 1 The proposal, by reason of its form, scale, and massing, fails to relate positively to the locality or make a positive contribution to Theydon Bois, contrary to Policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, Policy DM9 (A – i & ii) & (D – ii & iv) of the Local Plan Submission Version 2017, and Paragraphs 126 & 130 of the NPPF 2021.
- 2 In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1 and CP6 of the adopted Local Plan 1998 & 2006, Policies DM2 and DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.

#### **Informatives: (2)**

- 3 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority is willing to provide post-application advice in respect of any future application for a revised development.
- 4 This decision is made with reference to the following plan numbers: 21082\_001, 21082\_002, 21082\_003, 21082\_101, 21082\_102, and 21082\_103.