

OFFICER REPORT

Application Ref: EPF/0564/22
Application Type: Full planning permission
Case Officer: Ian Ansell
Site Address: 38 Queens Road
Buckhurst Hill
IG9 5BY
Proposal: Alterations and extension to create two flats, with amended retail space to front
Ward: Buckhurst Hill West
Parish: Buckhurst Hill
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NymM>

Recommendation: Approve with Conditions

And subject to a suitable legal agreement in respect on mitigation of EFSAC impacts.

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)).

Description of Site:

The application site lies on the south side of Queens Road within the core retail area towards the lower eastern end. The property is readily identifiable being three storey with the upper floor in a mansard style on the front located in a run of otherwise two storey units. The ground floor is in retail use, access to rear and upper floors is from a self-contained (shared) entrance from the front; the upper floors have been used for residential purposes and the rear workshop / storage building is currently unused.

The site abuts a rear service yard to properties to the east (approx. 26 – 30 Queens Road) but does not have access thereto. To the south lie residential properties in Princes Road which comprise two storey houses at this point.

Description of Proposal:

The application follows refusal of a scheme for three residential units including one in the workshop and two within the upper floors. This revised scheme relates only to the upper floors of the frontage building and proposes the same works thereto.

The building would be extended by 6.25m at ground floor and 9.95m at first floor to provide a flush rear wall with the works set in to retain the side access clear. The upper floors of the existing building will form 2 bed flat on two floors, and within the extension lies a one bed flat also over two floors.

The annexe building is shown as retained in the existing form.

Each flat is provided with its own outdoor space with provision for two cycle stands per units and a communal refuse store is provided. Internal refurbishment of the shop is included to self contain this element as well.

Relevant History:

EPF/0251/20 Alterations and extension to create 5no. one bedroom flats, with amended retail space to front. Application was refused on grounds of impact on neighbours from the extension of the rear building to two storeys, scale and mass of second floor extension to the main building, impact on EFSAC, pressure on parking and the over intensive character of the development in terms of the amenity of future occupiers. An appeal was dismissed – the Inspector supported the reasons relating to the impact of the additional floor to the rear building on neighbours and from the second floor extension, and the reason relating to harm to the EFSAC. The Inspector did not support the arguments around the standard of accommodation being provided given there was shared amenity space provided, nor the reason relating to parking pressure as the site was considered to be in a highly sustainable location where transport and other services were readily available.

EPF/2149/21 Alterations and extension to create three flats, with amended retail space to the front – refused February 2022. An appeal has been lodge against this refusal.

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:

CP1	Achieving sustainable development objectives
CP2	Protecting the quality of the rural and built environment
CP6	Achieving sustainable urban development patterns
CP7	Urban Form and quality
NC1	SPA's, SAC's and SSSI's
RP4	Contaminated Land
U3B	Sustainable Drainage Systems
DBE2	Effect on neighbouring properties
DBE3	Design in urban areas
DBE6	Car parking in new development
DBE9	Loss of Amenity
DBE10	Residential Extensions
ST6	Vehicle parking

NPPF (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.

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 7, 8, 10, 11, 12
- 5 Delivering sufficient supply of homes – paragraphs 60, 66, 69, 74, 75, 79
- 8 Promoting healthy and safe communities – paragraphs 92, 97
- 9 Providing sustainable transport – paragraphs 104, 107, 108, 110, 111, 112
- 11 Making effective use of land – paragraphs 119, 122, 123, 124
- 12 Achieving well designed places – paragraphs 126, 130, 131, 132, 135
- 14 Meeting the challenge of climate change, flooding and coastal change – paragraphs 154, 159 – 169
- 15 Conserving and enhancing the natural environment – paragraphs 174, 175, 179 - 182, 183, 185, 186

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)."

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 advanced stage of the LPSV, all policies should be afforded significant weight:

No.	POLICY
SP1	Presumption in favour of sustainable development
SP2	Spatial Development Strategy
T1	Sustainable transport choices
T2	Safeguarding of routes and facilities
DM1	Habitat protection and improving biodiversity
DM2	Epping Forest SAC and Lee Valley SPA
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

Consultation Carried Out and Summary of Representations Received

Date of site visit: 06 December 2021

Number of neighbours consulted: 15

Site notice posted: No, not required

Responses received: One response have been received from neighbour at 40A QUEENS ROAD concerned at potential loss of privacy.

Parish Council: Buckhurst Hill Parish Council have objected as under:

- Double storey height extension affecting adjoining gardens
- Loss of amenity

Main Issues and Considerations:

In February, Members refused the previous application for one reason, as under:

The proposed development of the rear residential detached annex would result in cramped and unfavourable living conditions development for the future occupants of the annex and the access is unsuitable for such a use due to the design of the overall application and this is contrary to policies DBE3, DBE9 and DBE 11 of the adopted Local Plan 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and Paragraphs 126 & 130 of the NPPF 2021.

The annex element has now been removed from the application and the reason for refusal has therefore been addressed.

In terms of the works to the frontage building, notwithstanding Members raised no objections to this aspect, the primary considerations remain unchanged. The extension is consistent with the pattern of development in the vicinity which has seen a wide range and scale of additions constructed on the rear, including at the adjoining properties. With no habitable accommodation at ground floor of these properties, impact from the general scale of buildings is limited. The neighbouring resident has raised

concerns at loss of privacy but no windows are proposed in the side elevation and rear facing windows exist in the existing building.

The internal accommodation meets the nationally described space standards as set out in policy DM10. Areas of amenity space are available within the site for the occupiers and each unit is provided with cycle stores. A refuse compound is proposed within the rear yard to serve both units.

As before, the scheme does not provide any parking. However, the highly sustainable location meets all necessary criteria to be considered appropriate for car free development as it provides ample alternative travel modes, including cycle stands in a secure location, and has access to services. The Inspector in the earlier appeal accepted this was an accessible location, as did Members on the previous application.

The site lies within the core area of the Epping Forest SAC and has been assessed in terms of recreational pressure and air quality. On the latter issue, an assessment accompanying the application recognises that vehicle movements associated with the development would have limited impact on the SAC. The applicants have confirmed their intention to complete a suitable legal agreement to contribute towards appropriate mitigation measures, in line with adopted guidance. As a result an appropriate assessment has been completed as under:

Assessment under the Conservation of Habitats and Species Regulations 2017 (as amended)

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 Loughton/Buckhurst Hill/Theydon Bois (delete as appropriate). 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. In doing so the Council has sought to take a proportionate approach to the securing of such financial contributions, and currently only seeks these from proposals for new homes within 3km of the EFSAC, as is the case with this planning application. 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.

Conclusions:

The Council is satisfied that, subject to the satisfactory completion of a Section 106 planning obligation and the imposition of relevant planning conditions as above, the application proposal would not have an adverse effect on the integrity of the EFSAC.

Conclusion:

The proposal has responded to previous refusal by reducing the scale of the proposed development to the works to the existing building only. The works have little direct impact on neighbouring occupiers while providing new residential accommodation in a highly accessible location.

Subject therefore to an appropriate legal agreement to address mitigation measures in relation to the EFSAC and to conditions, the application is recommended for approval.

Should you wish to discuss the contents of this report item please use the following contact details by 11am on the day 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

Conditions: (8)

- 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: QUE-001, QUE101, TBU/202, TBU/203, TBU/101, TBU/211, TBU/212, TBU/213, and existing plans and sections.

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

- 3 Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, Residential amenity areas shall be available prior to first occupation of the dwellings and thereafter retained solely for amenity space for occupiers.

Reason: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complementary, and to ensure a satisfactory appearance to the development, in accordance with policies CP2 and LL11 of the adopted Local Plan and Alterations 1998 & 2006, policies DM3 and DM5 of the Local Plan Submission Version 2017, and the NPPF 2021.

- 4 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building.

Reason: To ensure a satisfactory appearance in the interests of visual amenity of the area, in accordance with policy DBE10 of the adopted Local Plan 1998 & 2006, and Policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021

- 5 The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

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 can be 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, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.

- 6 Refuse stores and cycle stands shown on the plans hereby approved shall be fully installed and available for use prior to the first occupation of any of the residential units hereby permitted, and shall be thereafter retained in perpetuity for use by residential occupiers.

Reason: To ensure that adequate cycle and refuse facilities are duly provided in accordance with policies CP1, DBE9 and ST5 of the adopted Local Plan and Alterations, policies DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF 2021

- 7 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 without the prior written permission of the Local Planning Authority.

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 2021.

- 8 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 2021.

Informatives: (1)

- 9 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.