

# OFFICER REPORT

**Application Ref:** EPF/0653/22  
**Application Type:** Full planning permission  
**Case Officer:** Alastair Prince  
**Site Address:** 21 Woburn Avenue  
Theydon Bois  
Epping  
Essex  
CM16 7JR  
**Proposal:** Extend an existing garden building.  
**Ward:** Theydon Bois  
**Parish:** Theydon Bois  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NyxE>  
**Recommendation:** Approve with Conditions

*This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council which is material to the planning merits of the proposal, and the Local Council confirms it intends to attend and speak at the meeting where the application will be considered (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).*

## **Additional Information:**

The application was previously deferred to allow a site visit by Members to take place, which is scheduled for 30<sup>th</sup> July 2022.

## **Description of Site:**

The application site is a two storey end of terrace residential dwelling with an existing outbuilding sited in the rear garden. The immediate area is characterised by terraced dwelling houses with long rear gardens and outbuildings sited within the rear gardens of several neighbouring properties. There are no Listed Buildings attributed to the site and it is not within a Conservation Area. The site is not within the metropolitan green belt.

## **Description of Proposal:**

Planning permission is sought for an extension to an existing outbuilding. The extension would measure 5 metres in depth (making the outbuilding a total of 8.7 metres in depth), 4.1 metres in width and 3.2 metres in overall height (2.47 metres to the eaves)

## **Relevant Site History:**

EPF/1734/20 - Application for a Certificate of Lawful Development for a Proposed single storey extension – Lawful

## **Policies Applied:**

National Planning Policy Framework 2021

Local Plan (1998) and Alterations (2006)

CP2 – Protecting the quality of the rural and built environment  
DBE2 - Effect on neighbouring properties  
DBE9 - Loss of amenity  
DBE10 – Design of Residential Extensions

Epping Forest Local Plan 2017 (submission version)

The Epping Forest District Local Plan (Submission Version) 2017 has been approved for publication and is the Plan the Council intend to submit for independent examination. The policies in the Plan are considered to be up to date and accord with national policy and therefore should be given substantial weight in the consideration of planning applications in accordance with the Council's decision on 14 December 2017 and paragraph 217 of the NPPF. The policies and the Plan are supported by up to date and robust evidence – the evidence should also be treated as a material consideration. The relevant policies in the context of the proposed development are:

DM9 – High quality design

### **Summary of Representation**

No. of neighbours consulted – 3, 2 objections received

19 WOBURN AVENUE – STRONG OBJECTION: inaccurate information submitted on application form as the work appears to have been started without consent. Current (and proposed) use of the outbuilding should be classed as a business use. Concerns regarding exacerbated parking as a result of the building's use. Development would be contrary to policy E12 of the Adopted Local Plan (and Alterations) 2006. Development would cause harm to the character of the area and would cause harm to the living conditions of neighbours in relation to loss of light and visually overbearing. Concern regarding the section of the outbuilding utilised for storage of motorcycles.

23 WOBURN AVENUE – OBJECTION: The creation of a larger outbuilding would cause the existing business being operated from it to expand. Development would cause an unwanted precedent within the area. Parking concerns due to customers of the business occupying spaces. Concerned by the height of the proposal and would be visually overbearing and result in loss of privacy. Concern regarding oil, petrol and flammables housed within the storage part of the building.

PARISH COUNCIL – STRONG OBJECTION:

The proposed development would extend an existing outbuilding within a residential curtilage of a terraced property in Woburn Avenue, where neighbouring gardens are of a similarly narrow rectangular shape. In the planning committee's view the proposal would be an excessive and disproportionate addition to that outbuilding, given the constraints of the site.

The scale and massing would not relate positively to the built form within the vicinity and, given the narrowness of the plot, the extended structure would likely to have a negative impact on the amenity of the adjacent neighbours, appearing overly dominant, particularly when viewed from the garden of the adjoining property at number 19. There would be no planting to screen the building along the shared boundary, whilst the structure would be positioned to the south of that neighbour, casting further shade over the garden area.

The committee also questioned whether the location plan submitted with the proposal is accurately drawn to scale, since this would not appear to correspond with dimensions perceived to be visible on site from the photograph provided. Residents of the two immediate neighbouring properties-19 and 23 Woburn Ave-have contacted the Parish Council with concerns related to this proposal. Photographs

shared with the planning committee illustrates the dominant size of the extension, relative both to assign plot and to those of the neighbouring properties.

The height of the proposal-at 3200 mm-is presumed to be the current height of the existing building, which as photo one shows, is already significantly higher than neighbouring outbuildings-despite its not currently enjoying the benefit plan permission, while exceeding 2.5 m in height and being sited within 1 m of both neighbouring boundaries.

The proposal would extend the depth of the existing outbuilding from 3720 mm to 8720 mm-an increase of almost 135%. Although the footprint may not exceed 50% of the curtilage, the proposal would span the entire width of the plot and its significant depth would make it appear overbearing and visually dominant in the context of the narrow rear garden. Consequent loss of light to some house of the adjoining neighbour would be, the committee feels, a valid consideration.

The use of the garden building is also of particular concern, since it appears that the existing outbuilding may be used for commercial purposes. Advertisements for Pilates tuition-including one referring to a purpose-built studio set within a garden area-have been shared with committee members. The parish council feels that a business enterprise operates at the back garden, which entails bringing people onto the property, would set an unwelcome precedent, for which it does not wish to encourage.

More usual facilities for this kind of use would be those associated with the hiring of a whole, and there are three such community facilities within the village. Many of the period properties in this road-including the application site-have shallow front gardens and do not have the facility for offstreet parking. Spaces in the road for resident car parking provided via permit, being therefore limited and at a premium. The side access to rear garden of this property is particularly narrow and runs in tandem with the side access of 23 Woburn Ave. The occupant of this latter property feels that their privacy is being compromised by visitors to 21 Woburn Ave using the side access.

Granted planning permission, issued by EFDC for outbuildings within residential curtilage is, customarily include a condition regarding usage, such as:

*“the outbuilding hereby approved shall only be used for purposes incidental to the dwelling house on the site. It shall not be used to primary residential accommodation (for example, as a living room, bedroom or kitchen) and shall not be used for any business or commercial purposes any time.”*

However, notwithstanding the above concerns regarding the present or future use, the parish council strongly objects to the increased size of the proposed development, which it feels would be of a scale detrimental to the resident amenity of neighbouring properties and, therefore, contrary to policies DBE1 and DBE9 of the ‘Epping Forest District Local Plan 1998, with alterations of 2006’, Policy DM9 of the ‘Epping Forest District New Local Plan, Submission Version 2017’, and Paragraphs 126 and 130 of the NPPF, 2021.

### **Main Issues and Considerations**

The main issues to consider for the assessment of this application are as follows:

Design  
Impact on the Living Conditions of Neighbours  
Use

#### **Design**

Neighbours and the Parish Council have objected to the application stating that the design of the proposal would be detrimental to the character of the area.

The proposal would involve extending the existing outbuilding by 5 metres in depth and would be at the same height (3.2 metres) and width (4.1 metres) as the existing building. The external proposed materials would be timber weatherboarding with a felt gabled roof.

During a site visit, it was noted that several outbuildings sited at the rearmost part of gardens within Woburn Avenue (including both adjoining neighbours at no. 19 and 23 Woburn Avenue and beyond) were present and in a variety of designs. When viewing aerial photographs, it was clear to see that rear outbuildings are part of the street's character and have been constructed in a variety of shapes and sizes (a notable example being 43 Woburn Avenue). Furthermore, the site benefits from a long rectangular rear garden (approximately 31 metres in depth from the rear elevation of the existing dwelling to the rear boundary when measured from the block plan). If the extension is to be constructed, it would leave approximately 22 metres of garden space. This would ensure that the individual character of the site is maintained and would not be out of scale with the rest of the site or its surroundings. The height of the structure would be acceptable and would not be out of character with the surrounding area. It is considered that this proposal would not be detrimental to the character of the existing site or wider character of the surrounding area.

### Impact on living conditions

The Parish Council and neighbours have objected to the proposal stating that it would cause harm to the living conditions of neighbours in relation to loss of light, loss of privacy and loss of outlook.

As stated above, the extension would measure 5 metres in depth (making the outbuilding a total of 8.7 metres in depth), 4.1 metres in width and 3.2 metres in overall height (2.47 metres to the eaves). It would be 0.4 metres from the boundary with 23 Woburn Avenue and 0.12 metres from the boundary with 19 Woburn Avenue.

As part of their comments, the neighbours at 19 Woburn Avenue have stated that the primary use of their own outbuilding is as a study. In planning terms, this use is not classed as a habitable room, rather a space incidental to the enjoyment of the dwelling house.

The rear elevations on this side of Woburn Avenue are south facing, however the outbuildings are north facing and are unlikely to get an excessive degree of sunlight in any event. This, in combination with the fact that the neighbouring outbuildings are not used as habitable rooms (bedrooms, living rooms), would mean that the harm to living conditions in regard to loss of light is lessened. Furthermore, the application site and neighbouring properties benefit from large garden areas and whilst there may be some overshadowing, the majority of rear amenity space would not be affected and would not cause excessive harm to the living conditions of neighbours in relation to loss of light to habitable rooms. As the development would be site at the rearmost part of the garden, it is considered the proposal would be a sufficient distance away from the neighbouring dwellings so as to not cause excessive harm to neighbours in relation to loss of outlook.

In regard to loss of privacy, the neighbour at 23 Woburn Avenue have stated that the loss of privacy would occur when clients of the applicant are using the side access to use the outbuilding. This would not constitute a loss of privacy as the existing access is being used as a functional part of the site and it can be reasonably expected that it would not be used to look directly into neighbouring properties. The proposal would not cause excessive harm to neighbours in relation to loss of privacy.

### Use

The Parish Council and neighbours have objected to the proposal stating that the proposed use of the outbuilding would be for a commercial use and storage/workspace area to work on motorcycles.

It has been confirmed by the applicants that the intended use of the outbuilding would be for a commercial use (specifically, running pilates classes from home) and the applicants have specified that,

currently, there are 3 clients that attend the studio once a week for an hour session (two at 8:30am and one at 16:00pm) and the intention would be to rise this to a maximum of 6 clients per week. Clearly, there would be concerns at potential disturbance were this to be a use attracting a high number of callers and a rapid turnover. It evidently is not and conditions are available to safeguard against any significant change in character and pattern of activity.

The proposed use for storage/ use as a space to work on motorcycles would be considered as incidental to the enjoyment of the dwelling house and would be considered acceptable. There are conditions available to protect the amenity of neighbours from any excessive noise if considered necessary.

The objectors at 19 Woburn Avenue have referred to Policy E12 of the Adopted Local Plan and Alterations 2006 stating that the development would not be acceptable as it would not be compliant with that policy. A copy of the title deed was also provided whereby the following was highlighted:

*No lime kiln brick kiln brickyard or smith shall be constructed made or used at any time on the plots of land hereby conveyed.*

It should be put forward that the above is a very specific use. The intended use of the outbuilding clearly would not fall into the above statement shown on the title deed and is therefore not relevant.

Policy E12 states that:

*The Council will grant planning permission for small scale business activities outside the Green Belt, including (where necessary) consent for working from home, provided that the proposed development:*

- *Will not have a significantly adverse effect on either:*
  - a) *The amenities of any nearby property; or*
  - b) *The character of the surrounding area.*

*Any planning permission granted for working from home will:*

- *Be subject to the development remaining subsidiary to the residential use; and*
- *Relate solely to the person who occupies the dwelling and carries out the activity*

Evidently, the development would remain subsidiary to the main dwelling and relates solely to the applicant (who occupies the dwelling where the intended use is to take place) and would facilitate home working. If the outbuilding in question was let out for a commercial purpose and operated by persons that do not reside at 21 Woburn Avenue, then a change of use would occur. It would still remain as ancillary to the main dwelling and it has already been put forward above that the proposal would not amount to a significant change in character to the surrounding area. Neither will it have a significantly adverse effect on the amenities of neighbouring dwellings due to the sporadic nature of the use. It is considered that the intended use would be acceptable.

The objectors also refer to parking issues. There is no facility for off-street parking on the site and there is a parking permit scheme in place on Woburn Avenue, however it is considered on balance the low numbers of clients visiting the site as outlined above would not generate significant highway movements in the vicinity to be harmful to highway safety.

#### Other matters

The objectors have stated that the current outbuilding was erected without the benefit of planning permission which has not been regularized and that, by granting permission, an illegal building would be increased.

Whilst it is correct that the existing building has not been regularised by a lawful development certificate/planning permission, it should be submitted that it is possible to retrospectively grant planning permission for development that has been completed without the benefit of planning permission. As the extension is certainly part of the existing outbuilding, it is considered that the development would be exempt from enforcement action if planning permission is granted.

Any matters relating to maintenance or the construction work relating to the proposal are matters to be dealt with by Building Control and are not material planning considerations.

### **Conclusion**

It is recommended that planning permission is granted subject to conditions.

***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: Alastair Prince  
Direct Line Telephone Number: 01992 564462***

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

### **Conditions: (7)**

- 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:

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

- 3 The use of the development hereby permitted shall only be operated by an occupier of the residential property 21 Woburn Avenue, Theydon Bois, CM16 and shall not be let or used independently thereof.

Reason: In order to protect the amenities of surrounding occupiers from any sub-division of the site, in accordance with policies DBE2 and DBE9 of the adopted Local Plan and Alterations, policy DM9 of the Local Plan Submission Version 2017 , and the NPPF.

- 4 The maximum number of clients using the outbuilding shall not exceed 6 persons in any week.

Reason: To protect the amenities of surrounding residents in accordance with policies DBE2 and DBE9 of the adopted Local Plan and Alterations, policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

- 5 No clients shall be permitted on the premises other than between 09:00 and 17:00 Mondays to Fridays.

Reason: To protect the amenities of surrounding residents in accordance with policies DBE2 and DBE9 of the adopted Local Plan and Alterations, policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

- 6 Notwithstanding the provisions of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007 as amended, or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order, no advertisement other than an identification sign attached to the front of the outbuilding not exceeding 0.3m square in area shall be displayed at the property without prior consent from the Local Planning Authority by way of an appropriate application.

Reason: In the interest of general visual amenity, in accordance with policies DBE2, DBE9 and DBE13 of the adopted Local Plan and Alterations, policies DM9 and DM13 of the Local Plan Submission version 2017, and the NPPF.

- 7 No amplified music shall be played during the hours of operation between 8:30am and 8pm Mondays to Fridays, 9am and 5pm on Saturdays and Sundays, and at no time on Bank or Public Holidays.

Reason: To protect the amenities of surrounding residents in accordance with policies DBE2 and DBE9 of the adopted Local Plan and Alterations, policy DM9 of the Local Plan Submission Version 2017, and the NPPF.

**Informatives: (1)**

- 8 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.