

# OFFICER REPORT

**Application Ref:** EPF/0793/22  
**Application Type:** Full planning permission  
**Case Officer:** Alastair Prince  
**Site Address:** 35 Dukes Avenue  
Theydon Bois  
Epping  
CM16 7HG  
**Proposal:** Single storey outbuilding to replace existing outbuilding for use as a home gym and storage use with provision for solar on roof.  
**Ward:** Theydon Bois  
**Parish:** Theydon Bois  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000NyzK>  
**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 (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)*

## **Description of Site:**

The application site is a two storey semi-detached dwelling located on the Western side of Dukes Avenue in the residential area of Theydon Bois. 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:**

Single storey outbuilding to replace existing outbuilding for use as a home gym and storage use with provision for solar on roof. The outbuilding would be 6.5 metres in depth, 2.8 metres in width and 3.2 metres in height to the roof (3.87m in height to the top of the solar panels)

## **Relevant Site History:**

EPF/3301/21 - Part two storey part single storey rear extension – Grant Permission With Conditions  
EPF/0383/05 – First floor side extensions – Grant Permission With Conditions  
EPF/0695/92 – First floor side extension – Grant Permission With Conditions  
EPR/0366/49 – Garage – Grant Permission

## **Policies Applied:**

*Local Plan (1998) and Alterations (2006)*

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
DBE2	Effect on neighbouring properties
DBE9	Loss of Amenity
DBE10	Design of Residential extensions

*National Planning Policy Framework (NPPF) (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:

Paragraph	124
Paragraph	127
Paragraph	130
Paragraph	131

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

Although the LPSV does not currently form part of the statutory development plan for the district, on 14<sup>th</sup> 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 2<sup>nd</sup> 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.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated:

SP1 - Presumption in Favour of Sustainable Development - Significant  
DM9 - High Quality Design - Significant

### **Summary of Representation:**

No. of neighbours consulted: 3, no comments received.

PARISH COUNCIL – OBJECTION:

In viewing this application, the Planning Committee took into consideration the application recently granted under EPF/3301/21. Whilst there is presently a garage sited alongside the boundary with the adjacent neighbour, at number 33, this would be removed in order to facilitate that new extension. Therefore, in proposing a further outbuilding, the new structure would be sited further rearwards.

The 'existing and proposed plans' submitted with this application do not give the height of five solar panels illustrated on the roof of the proposed outbuilding. However, there would be clearly visible in addition to the height of the new structure which, with a proposed roof height of 3.2 m, would already exceed that of the fence, and so be prominent above it. Notably, the land would need to be excavated in order to ensure that the building would not project even higher. The design of the panels would also not complement the structure of the building, a consideration that would undermine the suggested environmental benefit. It is noted that if "good design is a key aspect of sustainable development" (NPPF, paragraph 126) this needs to be taken into account when such proposals are put forward.

The Planning Committee feels that the additional height of the solar panels would make an already dominant outbuilding into a more overbearing form of development in this location, given the siting directly on the boundary with the neighbour and adjacent to their patio area. At a depth of 6.625 m, the design of the building, and the solar panels, is not felt to be in sympathy with the character of locality and would compromise the outlook and visual amenity of the immediate neighbours. There is already another larger outbuilding sited at the end of this garden, which could accommodate a proposed use.

Therefore the Parish Council objects to the proposal which, in its view, would not achieve a high level of design and would fail to protect the amenity of residents in neighbouring property-contrary to Policies DBE1 and DBE9 of the 'Epping Forest District Local Plan 1998, and Alterations 2006', Policy DM9 of the 'Epping Forest District New Local Plan, Submission Version 2017', and paragraphs 126 and 130 of the NPPF 2021.

Notwithstanding the above objections should application for an additional outbuilding be recommended for approval, the planning committee would wish the following to conditions to be included in any grant planning permission:

1. Excavation works this development are to be carried out strictly in accordance with the submitted plans, with level submitted to the local authority for Prior approval.

Reason: the proposed building is sited on rising land and would be particularly prominent if not built at a significantly lower level than the current ground level.

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

Reason: to protect the amenity and living conditions of immediate neighbours.

N.B. The Parish Council have stated they are willing to attend and speak at Committee.

## **Main Issues and Considerations:**

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

### Design

Impact on Living Conditions of Neighbours

### Design

The proposed outbuilding would have a flat roof and solar panels affixed upon the roof. The outbuilding would be externally finished in brick (facing the neighbour at 33 Dukes Avenue) and timber cladding on all other elevations. The fenestration of the outbuilding would be uPVC.

The Parish Council have objected to the proposal stating that the scheme would be out of keeping with the existing dwelling. It is considered by officers that such developments are common within urbanised areas and the single storey nature of the development would not be out of keeping with the area's character. In regard to sustainability, the installation of solar panels would help the site's overall sustainability and should be supported. Whilst it is noted that some excavation would be necessary, it is possible for this to be managed via condition. The proposal would not be detrimental to the character and appearance of the wider area.

### Impact on Living Conditions

The Parish Council have objected to the proposal stating that the development would cause harm to the neighbours in regard to loss of outlook and visual amenity.

As stated above, the outbuilding would be 6.5 metres in depth, 2.8 metres in width and 3.2 metres in height to the roof (3.87m in height to the top of the solar panels) and would be adjacent to the boundary with 33 Dukes Avenue. Although the outbuilding would be located further back into the site (approximately 4.6 metres between the rear elevation of the dwelling and the nearest point of the outbuilding), it is considered that, due to the modest height of the outbuilding, it's siting close to the northern boundary with 33 Dukes Avenue and the distance between the development and neighbouring dwellings, the proposal would not cause excessive harm to the living conditions of neighbours in regard to loss of light, overlooking or loss of outlook.

## **Conclusion**

It is recommended that planning permission is granted subject to conditions for the reasons stated above.

***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: (5)**

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: 1.1/00

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

3 The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified in the submitted application form.

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.

4 The building hereby permitted shall remain incidental to the enjoyment of the main dwelling house and shall not at any time be used as primary residential accommodation.

Reason: The development does not satisfy the standards considered acceptable by the Local Planning Authority for a separate unit of accommodation, in accordance with policy DBE1 of the adopted Local Plan 1998 & 2006, Policies DM9 and DM10 of the Local Plan Submission Version 2017, and the NPPF.

5 All material excavated from the below ground works hereby approved shall be removed from the site.

Reason: In order to ensure that levels are not altered across the site as a result of deposited materials, in the interests of amenity, in accordance with Policies CP2, DBE1 and DBE9 of the adopted Local Plan 1998 & 2006, Policies DM9 & DM21 of the Local Plan Submission Version 2017, and the NPPF.

**Informatives: (1)**

6 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.