

Report Item No: 1

APPLICATION No:	EPF/2311/09
SITE ADDRESS:	Barkers Farm Mount End Road Theydon Mount Epping Essex CM16 7PS
PARISH:	Theydon Mount
WARD:	Passingford
APPLICANT:	Mr Leonard Barker
DESCRIPTION OF PROPOSAL:	Certificate of lawful development for existing residential use. (Use class C3)
RECOMMENDED DECISION:	Lawful

REASONS

- 1 This application demonstrates the extent and nature of the use currently taking place. That is the use of the land and part of building identified in drawings accompanying the application as a dwelling house. Furthermore, the evidence submitted with the application demonstrates beyond the test of "on the balance of probability" that the land and part of building identified has been used for the primary purpose of a dwelling house continually for at least 4 years prior to the date of the application. On that basis, the claimed use is demonstrably time immune from planning enforcement action and the applicant is entitled to a Certificate of Lawfulness of existing use.

This application is before this Committee since it has been 'called in' by Councillor Diana Collins (Pursuant to Section CL56, Schedule A (h) of the Council's Delegated Functions).

Description of Proposal:

Application for a Certificate of Lawfulness under S. 191(1) of the Town and Country Planning Act 1990 Act for the existing use of part of an existing building for residential purposes (Use Class C3). Although the applicant does not say the use is a dwellinghouse, Use Class C3 comprises use as a dwellinghouse whether or not as a sole or main residence. The claim is therefore equivalent to a claim in respect of a use as a dwellinghouse.

The applicant claims the use has taken place continually without planning permission for at least 10 years prior to the date of the application and, on that basis, is time immune from planning enforcement action and therefore a lawful use.

As with all applications for a Certificate of Lawfulness under S. 191(1), the primary matter to assess when considering this application is whether the evidence submitted demonstrates the applicants claim on the balance of probability. The higher test of “beyond reasonable doubt” does not apply. In particular, the planning merits of the development are not material considerations and cannot be given any weight.

An inspection by the case officer found the use for residential purposes takes place on two floors in the north west corner of a former single storey dairy building with the first floor contained in the roof space. The ground floor comprises three main rooms: a living room, kitchen and a dining/utility room. The accommodation in the roof space comprises two main rooms: a bedroom with en-suite shower over the kitchen and greater part of the living room together with a large walk-in wardrobe/study in a part of the roof that links the northern part of the building to a larger southern part over a vehicular access to small courtyard area. The residential use is accessed from the courtyard. The accommodation in the roof space is reached via a spiral staircase linking the living room to the bedroom.

A hard surfaced yard area approximately 3m wide adjacent to the north elevation is used for placing outdoor domestic furniture and hanging washing.

Description of Site:

The site is situated within a rectangular area of land of some 0.73 hectares (1.8 acres) situated off the east side of Mount End Road in the approximate centre of Mount End. It includes a former dairy building and more modern barn together with large hard-surfaced yard area on its northern boundary. South of those buildings the land is largely open but includes a small barn on its southern boundary and a lawful single storey building on the site boundary with Mount End Road.

The application site itself comprises part of the former dairy building, a single storey structure with an approximate L shaped plan comprising a narrow northern wing and larger southern wing. The site also includes a narrow concrete surfaced yard adjacent to the north elevation. Other than the part of the building to which the application relates, it is vacant and not used in connection with the claimed residential use.

A low barn clad in profiled sheeting is situated east of the northern wing. The northern part of it is used as a workshop while the southern part is unused.

Relevant History:

The land in which the application site is comprised has extensive planning history. No applications are directly relevant but there is planning enforcement history relevant to this application.

The site was inspected by enforcement officers in 2003 who found the ground floor rooms of the north wing of the dairy that are part of the application site comprised a living room/office, a kitchen and utility room. There was no physical link to the roof space from the rooms. Officers assessed the use as amounting to a rest area for people using the land for its lawful purpose of agriculture and activities ancillary to that purpose.

Investigation into the stationing of a caravan for overnight accommodation in 2008 included an inspection of the former dairy building. Enforcement officers found the ground floor rooms of the north wing of the dairy that are part of the application site used in the same way as they were in 2003.

In 2009 the applicant revealed to enforcement officers that he had acted to conceal the use as a dwelling house from them. He said he achieved this by only allowing them to enter the land with prior appointment so that he had opportunity to remove evidence of any access to the roof space

from the ground floor of the application site. Evidence was submitted demonstrating access was via a retractable loft ladder between the living room and bedroom. That ladder has now been replaced by a more permanent spiral staircase. The applicant also provided evidence to enforcement officers that appeared to show the use was time immune from enforcement action. In response officers requested he made an application for a Certificate of Lawfulness in order that full the evidence of the use could be assessed.

Evidence Submitted by the Applicant:

A. Medical correspondence as follows:

1. Invoice dated 20 January 2010 from The Limes Medical Centre to the applicant at Barkers Farm.
2. Medical history form for applicant dated 11 January 2010 giving his address as Barkers Farm.
3. Discharge Summary note of Princess Alexandra Hospital NHS Trust dated 17 June 2009 in respect of the applicants' partner of Barkers Farm.
4. Letter dated 2 August 2007 from The Princess Alexandra Hospital NHS Trust addressed to the applicants' partner at Barkers Farm.
5. Copy of letter dated 1 September 2005 from Dr J Singer, consultant Oncologist to Dr W C A Solomon regarding the applicants partner of Barkers Farm.
6. Letter dated 23 May 2005 from Mid Essex hospital Services NHS Trust addressed to the applicants' partner at Barkers Farm.
7. Letter dated 14 September 2004 from The Limes Medical Centre to the applicant at Barkers Farm.

B. Bank statements for a NatWest current account held by the applicants partner addressed to Barkers Farm dated March 2004, January 2005, December 2005, January 2006, June 2006, August 2006, June 2007, November 2007, April 2008, November 2008 and March 2009.

C. Premium Bonds Certificate of Investment for the applicants partner of Barkers Farm.

D. Documents relating to inspections by a surveyor

1. Inspection report by David Fenton FRICS, MB Eng. (of Strutt & Parker dated June 2001. The report concludes it was clear at the date of his inspection, 28 June 2001, that the application site was being used as permanent living accommodation by the applicant and his partner. The report includes a plan identifying the site, describes each room as being used and furnished in a manner not materially different to that found by the case officer when the site was inspected earlier this year. Detailed photographs dated 28 June 2001 are appended to the report and show access between the living room at ground floor and bedroom in the roof space via a loft ladder.
2. Statutory declaration of David Fenton dated 4 February 2010 and witnessed by Gepp & Sons Solicitors declaring he is the author of the inspection report dated June 2001 relating to the applicants residence at Barkers Farm.
3. Letter dated 13 June 2001 from David Fenton to the applicant at barkers Farm agreeing to carry out regular inspections of the site to establish a record of use for the purpose of subsequently proving a lawful residential use.
4. Letter dated 16 January 2002 from David Fenton to the applicant at Barkers Farm referring to a report of an inspection carried out on 7 January 2002 together with an invoice for carrying out and reporting on the inspections of 28 June 2001 and 7 January 2002.

5. Letter dated 9 August 2002 from David Fenton to the applicant at Barkers Farm referring to an inspection of the site on 8 August 2002 and confirming the site was being used as a dwellinghouse occupied by the applicant and his partner.
6. Letter dated 10 April 2003 from David Fenton to the applicant at Barkers Farm referring to an inspection of the site on 9 April 2003 and confirming the site was being used as a dwellinghouse occupied by the applicant and his partner.
7. Letter dated 16 April 2003 from David Fenton to the applicant at Barkers Farm enclosing an invoice for inspecting and reporting on the site in August 2002 and April 2003.
8. Letter dated 3 December 2003 from David Fenton to the applicant at Barkers Farm referring to an inspection of the site on 21 November 2003 and confirming the site was being used as a dwellinghouse occupied by the applicant and his partner.
- E. Receipts for domestic electrical goods from "Currys" dated 28 May and 30 May 2003
- F. Telephone bills from BT sent to Barkers Farm for that property.

The bills are for approximate 3 month periods and range from £78.53 in June 2002 to £209.45 in June 2009. They are all for the same telephone number and that is the number given as the applicants land line telephone number on the forms for this application.

The dates for the bills provided are: 23 June, 2002, 22 December 2002, 23 March 2003, 22 December 2003, 22 March 2004, 22 December 2004, 9 March 2005, 9 June 2005, 11 September 2005, 9 March 2006, 11 June 2006, 11 September 2006, 10 December 2006, 8 March 2007, 9 December 2008, 9 June 2009 and 10 December 2009.

- G. Records of previous applications for planning permission and certificates of lawfulness.

The applicant refers to some 40 previous applications submitted by the applicant relating to the wider area of the land within which the application site is situated. The earliest application was submitted in 2000 and gives the applicants address as Barkers Farm. The contact telephone number given is the same telephone number for which BT bills are submitted. Not all the application records include a telephone number but all give the applicants address as Barkers Farm.

- H. Decisions dated 15 September 2005 to dismiss planning appeals made by the applicant in which the Planning Inspector states "At the hearing the Appellant confirmed he was living at the appeal site and had been doing so for some time. I noted in relation to Appeal A (in respect of a proposed use of a farm office and ice cream parlour to a one bedroom supervisory unit of accommodation for existing goat farm) the rooms in question contained domestic furnishings and other equipment conducive to residential use."
- I. Letter dated 17 November 2009 from the Councils Planning Enforcement Team referring to evidence of residential use of the site and advising it is officers opinion that the use for residential purposes is time immune from planning enforcement action.
- J. Invoices from Bournebrook Heating Services for maintenance work on a boiler dated 6. March 2003, 21 October 2004, 13 October 2005 and 14 February 2007. They are all addressed to the applicant at Barkers Farm.
- K. Invoices and statements from Q8 Fuelcare, Fuelcare and Fuelcare Local sent to the applicant at barkers Farm between November 2002 and December 2008 for amounts up to

£391.13. They are dated 6 November 2002, 7 February 2003, 12 January 2004, 31 January 2004, 6 April 2004, 30 April 2004, 31 December 2004, 29 March 2005, 31 March 2005, 13 February 2006, 12 April 2007, 4 December 2008 and 17 December 2008

- L. Photographs of the interior of the claimed dwellinghouse developed at various dates from 1998 to 2009. Only one photograph was developed in 1998 and shows the bedroom and en-suite shower at an advanced stage of construction. All later photographs show the interior equipped and furnished for residential use, some including Christmas and birthday celebrations. They were developed in 2001, 2002, 2003, 2004, 2005, 2006, 2008 and 2009.
- M. A letter from the District Council's Senior Lawyer dated 13 May 2004 addressed to the applicant at Barkers Farm. The applicant claims to have some 200 to 300 letters from the District Council addressed to him at Barkers Farm.
- N. Copy of driver and vehicle licence and registration documents.
 - 1. Registration certificate for car acquired on 14 April 2005 by the applicants' partner. The address of the registered keeper is Barkers Farm.
 - 2. Counterpart driving licence of the applicant giving his address as Barkers Farm.
 - 3. Driving licence of applicants partner giving her address as Barkers Farm.
- O. Buildings and contents insurance
 - 1. Letter dated 6 August 2009 from Dale Insurance Services to the applicant at Barkers Farm confirming "there has been continuous Buildings and Contents in place on your home since 1995". The writer, M D Mayhew, states he has surveyed the site on numerous occasions. The letter is explicitly written with reference to a household insurance policy.
 - 2. Invoices for a household insurance policy in respect of Barkers Farm dated 5 December 2002, 12 December 2003 and 8 January 2007.
 - 3. Resume dated 11 December 2008 prepared by Cunningham & Lindsey on behalf of Zurich – UKPL for the purpose of investigating a claim for subsidence. The resume describes the building as a detached house.
- P. Tax documents for the applicant.
 - 1. VAT tax return dated 8 August 2002 giving the applicants address as barkers Farm.
 - 2. Statement of arrears on National Insurance Contributions account dated 3 July 2004 for the applicant addressed to him at Barkers Farm.
 - 3. Copy of online tax return form for the applicant issued by HMRC on 17 December 2009 and giving his address as Barkers Farm.
- Q. Letter dated January 2010 addressed to applicant at Barkers Farm from Chief Executive of EFDC enclosing his new bus pass.
- R. Two bundles of various household bills and correspondence. They include water bills, electricity bills and telephone bills in respect of Barkers Farm together with bank statements, tax self-assessment forms and invoices for furniture and household appliances

and services (e.g. plumbing). They are dated throughout the period 2002 to early 2010 and all addressed to the applicant at Barkers Farm.

Other Evidence:

1. Inspections of the site by the Planning Enforcement Team in 2003, 2008, 2009 and inspection by the case officer in 2010.

The inspections in 2003 and 2008 did not include the roof space of the building. At the time of the inspections it did not appear possible to access the roof space and the applicant, who was present, did not draw attention to the possibility of accessing the roof space. Indeed, he had taken measures to hide any indication that such access was possible.

The inspection in 2009 took place when the applicant decided to inform the District Council that he was using the relevant part of the building as a dwellinghouse. The 2010 inspection was carried out in connection with the assessment of this application. Both inspections revealed the relevant part of the building was being used as a dwellinghouse at those times.

There is no record of any other inspections of the inside of this part of the building by Planning Enforcement Officers. Records of inspections of the wider area of Barkers Farm do exist. They do not provide any conclusive information in respect of the claim.

2. Previous statements of the applicant in connection with applications and appeals stating he does not live at the site. These are set out below in the comments by the occupant of 11 Mount End.
3. Planning Contravention Notice completed by applicant on 28 July 2007 in respect of a suspected use of a detached building adjacent to the property boundary with the highway and a caravan elsewhere on the land for residential purposes.

The applicant states in the PCN that his permanent address is Barkers Farm, that he lives in the caravan together with his partner and that the building concerned is not used as a dwellinghouse

4. Information provided by the occupant of 11 Mount End, Theydon Mount

Various planning and enforcement officers have inspected the building in the last 4 years and found no evidence this building was used for residential purposes.

A planning application to use the relevant part of the building for residential purposes, ref EPF/2342/07, was refused and, following a subsequent inspection, a Planning Enforcement Officer informed Theydon Mount Parish Council that no residential use was taking place.

Statements made by the applicant in support of application EPF/2342/07 and application EPF/0040/08 in respect of the stationing of a residential caravan on the land and in subsequent appeal statements made it clear that he was not living in the building.

It appears the residential use started in 2008 at the earliest. This is based on the removal of leylandii trees beside the farm office that year and openings made for roof lights, a door and domestic window. Butane gas bottles were not visible adjacent to the building until spring 2009.

The applicant lived in a mobile home on the land from 1987 until the end of 2001 and applied for permission to retain it in June 2001 under application EPF/0790/01.

The applicant was suspected by Planning Inspectors of lying under oath when giving evidence to an inquiry in 2000.

The applicant and his partner are alleged to have owned a house in France and previously lived there for part of the year. Consequently it is contended that the use of the application site as a dwellinghouse could not have been taking place continually.

The applicant and his partner are not on the electoral role.

Assessment of the Claim and Available Evidence:

The Claim:

The claim made is sufficiently precise in describing the limits of the use as a dwellinghouse. They are shown clearly on the drawings submitted with the application. The claim relates to the building and a narrow triangular area of concrete surfaced land 3.5m wide at its widest dropping to a width of 2.5m with a length of 10m.

The Evidence:

The documentary evidence submitted by the application is comprehensive and covers the period necessary to demonstrate the claim. The relevant period is 26 November 2005 to 26 November 2009. The evidence is of the same high quality for the period from 28 June 2001 to November 2005.

The building was inspected at 6 monthly intervals between June 2001 and November 2003 by a surveyor who found it in use for residential purposes.

Correspondence from health care professionals and administrators within the NHS directed to the applicants partner between 2005 and the date of the application in connection with on-going medical treatment is a clear indication that she was residing at the property.

Details of the applicants' personal finances including tax and bank account details addressed to him at the property between March 2003 and March 2009 is a strong indication of residential use during that time. The same is the true of evidence of household insurance.

Telephone bills for the period claimed in respect of the property are addressed to the applicant there and are for amounts that are consistent with residential use.

The submitted photographs are all original and developed at various times throughout the period the use is claimed to take place show the inside of the building in residential use. Where the applicant and his partner appear in the photographs they can be seen to age during that time, adding weight to their value as evidence. It is evident that a small number of photographs were taken for the purpose of demonstrating use on the date they were taken.

The letter dated January 2010 addressed to applicant at Barkers Farm from Chief Executive of EFDC enclosing his new bus pass is only indicative of residential use at that time. However, it is nevertheless supportive of the overall claim as is the fact that all correspondence from the Council to the applicant has been to Barkers Farm and that he has never given any other address.

Receipts for electrical goods and delivery of fuel are not necessarily indicative of a residential use, but when considered in the context of other documentary evidence is supportive of the applicants' claim. The same is true of driver and vehicle licensing documentation.

The completed Planning Contravention Notice dated July 2007, while not clear that the building this application relates was in use for residential purposes, is clear that the applicant lives at the property at that time.

Written statements given in support of applications and appeals made by the applicant were made with the express purpose of gaining a planning permission. They are designed for that purpose and must be seen in that light as is the evidence given by the applicant to a planning inquiry in 2000. The statements and the applicants' previous behaviour is therefore of little help when assessing this application and little weight should be given to them.

The fact a mobile home on the site was removed in about 2001 and the question of whether the applicant lived in it is not relevant to this application because it relates to events that took place outside the 4 year period for which the claim must be demonstrated.

The removal of leylandii trees adjacent to the site is not relevant to the assessment that must be made. Photographic evidence, including that with the Surveyors report dated June 2001, shows that all alterations to the exterior of the building, whether in connection with the residential use or not, were carried out some 9 years ago at the latest.

No evidence is offered to support the claim by the occupant of 11 Mount End that the applicant lived in France for part of the period claimed, but even if that is correct, it does not weaken the applicants' claim. This is discussed further below

Findings:

This findings and conclusion of this report have been prepared following discussion with the Councils solicitor.

The Claim is sufficiently precise about the extent and nature of the use and clear evidence is given of what use is actually taking place.

The decision that must be made is whether, on the balance of probability, the use claimed is actually taking place and has taken place continually for 4 years prior to the date of the application.

There is no doubt that the use of the site as a dwellinghouse is taking place.

The evidence of how long the use has been taking place must be considered as a whole. It overwhelmingly demonstrates the use as a dwellinghouse started in 2001 at the latest and has continued ever since. The evidence is particularly strong for the 4 year period prior to the date of the application since that includes the period when the applicants' partner was receiving correspondence from the NHS regarding her personal medical treatment taking place throughout that time.

On the matter of demonstrating the building was used continually, that is not the same as a need to demonstrate continuous use. The distinction is that continual use does allow for breaks in the activity on site associated with the use concerned. In this particular case, if the applicant did spend some time abroad during the period claimed that would only undermine the claim if the building was used for a materially different purpose while the applicant was away and the period he was away was extraordinarily long, such as over one year. Essentially, a building does not cease to be used as a dwelling house if it is vacated for a temporary period such as while its occupant temporarily resides abroad. Indeed the use does not cease where it is vacated or for

any other reason e.g. it is put up for sale, provided it is not in the meantime used for a materially different primary purpose. In this case the allegation made by the occupant of 11 Mount End is not supported by evidence and should be treated as hearsay at best. It is of no assistance in assessing the claim by the applicant.

It is clear from the evidence that the applicant has acted deliberately to hide the use from the LPA until such time that he was confident he could demonstrate it was time immune from planning enforcement action and, therefore gain a Certificate of Lawfulness. The applicant had control of when Planning Enforcement Officers could access the building and used that to only allow access when he had taken steps to conceal any evidence of the use, and particularly evidence of a means of access to the roof space from the ground floor of the building. As a consequence, officers were unable to detect the use. Since the inside of the building does not appear to have been inspected until 2003, it is possible that even then it may have been too late to take enforcement action, although the evidence submitted with this application indicates it would not have been. The next recorded inspection of the inside of the relevant part of the building is 2008 when, again, the use and access to the roof space was successfully concealed. The evidence submitted with this application demonstrates that at that time it certainly would have been too late to take enforcement action.

In *Welwyn Hatfield Council v Secretary of State for Communities and Local Government* (Court of Appeal, 29 January 2010) it was found that the actions of an applicant to deceive a LPA are not a material consideration when considering an application for a Certificate of Lawfulness. The judgement states “If it was considered that there should be a different outcome in a case of dishonesty or deliberate concealment, it was for Parliament to amend the legislation accordingly.”

Conclusion:

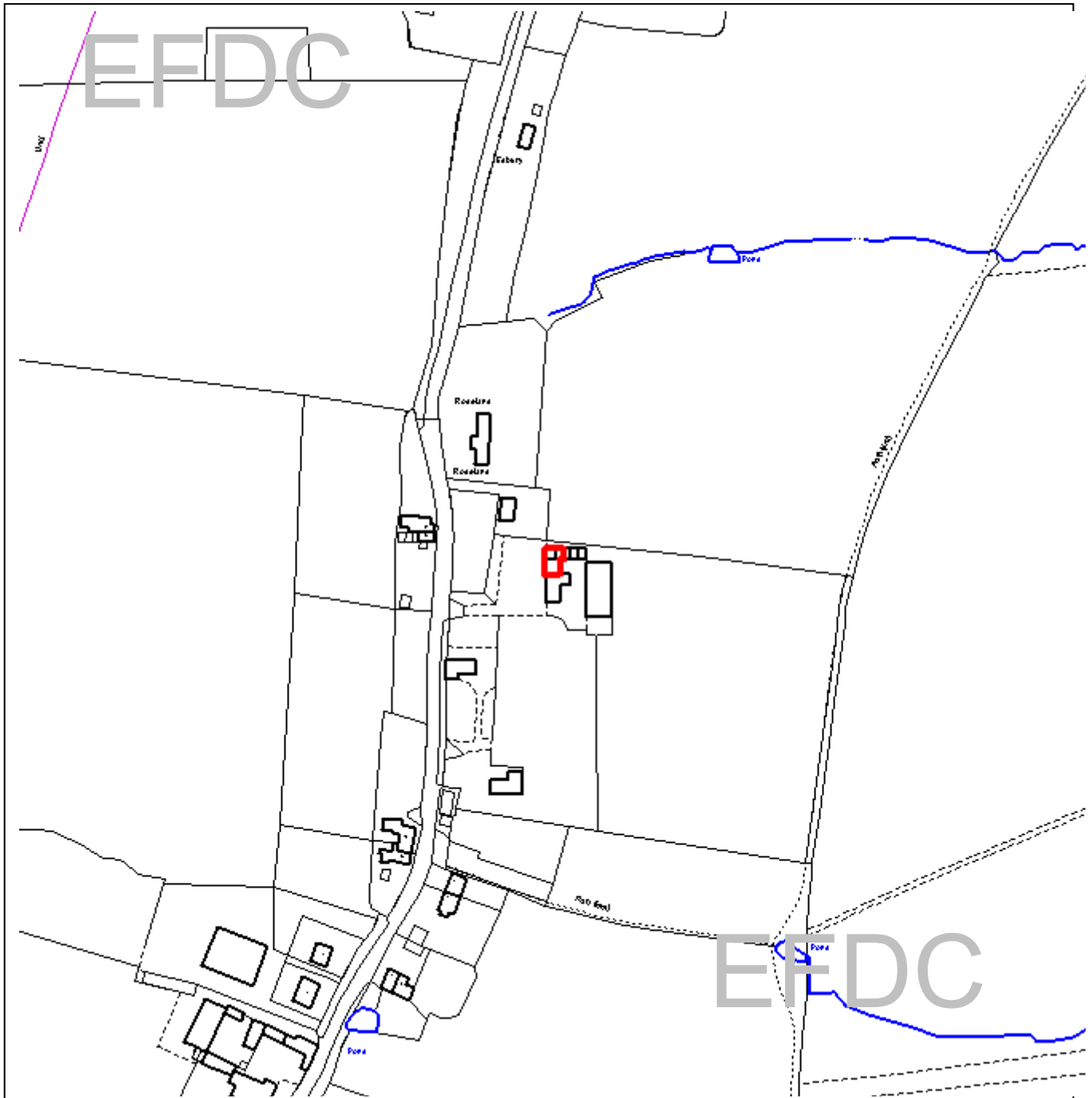
As already mentioned, the planning merits of the use are not a material consideration when assessing this application for a Certificate of Lawfulness. They cannot be given any weight. Furthermore, the fact that the applicant set out to deceive the LPA is also not a material consideration and cannot be given any weight when considering this application.

This application demonstrates the extent and nature of the use currently taking place. That is the use of the land and part of building identified in drawings accompanying the application as a dwelling house. Furthermore, the evidence submitted with the application demonstrates beyond the test of “on the balance of probability” that the land and part of building identified has been used for the primary purpose of a dwelling house continually for at least 4 years prior to the date of the application. On that basis, the claimed use is demonstrably time immune from planning enforcement action and the applicant is entitled to a Certificate of Lawfulness of existing use. Accordingly, it is recommended that a certificate be granted.



Epping Forest District Council

Area Planning Sub-Committee East



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Agenda Item Number:	1
Application Number:	EPF/2311/09
Site Name:	Barkers Farm, Mount End Road, Theydon Mount, CM16 7PS
Scale of Plot:	1/2500

Report Item No: 2

APPLICATION No:	EPF/1183/10
SITE ADDRESS:	11 Beulah Road Epping Essex CM16 6RH
PARISH:	Epping
WARD:	Epping Lindsey and Thornwood Common
APPLICANT:	Mr Ian Davidson
DESCRIPTION OF PROPOSAL:	Erection of a two-storey rear extension, single storey rear conservatory and replacement of dormers to front elevation.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed extension, shall match those of the existing building.
- 3 The development, including site clearance, must not commence until a tree protection plan, to include all the relevant details of tree protection has been submitted to the Local Planning Authority and approved in writing.

The statement must include a plan showing the area to be protected and fencing in accordance with the relevant British Standard (Trees in Relation to Construction-Recommendations; BS.5837:2005). It must also specify any other means needed to ensure that all of the trees to be retained will not be harmed during the development, including by damage to their root system, directly or indirectly.

The statement must explain how the protection will be implemented, including responsibility for site supervision, control and liaison with the LPA.

The trees must be protected in accordance with the agreed statement throughout the period of development, unless the Local Planning Authority has given its prior written consent to any variation.

- 4 Prior to first occupation of the building hereby approved the proposed window openings in the first floor flank elevation shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.

This application is before this Committee since it has been 'called in' by Councillor Chris Whitbread and Councillor Will Breare-Hall (Pursuant to Section P4, Schedule A (h) of the Council's Delegated Functions) and this application is before this Committee since the recommendation differs from the views of the local council (Pursuant to Section P4, Schedule A (g) of the Council's Delegated Functions).

Description of Proposal:

Two storey rear extension, single storey rear conservatory and replacement of dormers to front elevation. The two storey rear extension replaces an existing single storey rear extension and measures 3m deep, 6.5m wide and will be full height with a hipped roof to the rear. The conservatory measures 5m in depth, 4.3m wide, finished with a flat roof and glass lantern to a maximum height of 3.9m. The replacement dormer to the front elevation is a pitched roof dormer and two double rooflights to replace the two existing catslide dormers.

Description of Site:

11 Beulah Road is a two storey detached property located on the north west side of Beulah Road, a Close accessed from Lindsey Street. The property has an existing single storey extension and conservatory (which are to be replaced). The property is within the built up area of Epping and is not within the Green Belt or a Conservation Area. Beulah Road has a mix of property styles and character.

Relevant History:

EPF/1341/82 – Extensions and alterations – Grant Permission
EPF/0136//86 – Rear conservatory – Grant Permission

Policies Applied:

Epping Forest District Local Plan and Alterations

DBE9 – Impact on Amenity
DBE10 – Extensions to Dwellings
LL10 – Retention of Landscaping

SUMMARY OF REPRESENTATIONS:

EPPING TOWN COUNCIL: Council object to this development and believe it will result in a loss of light and amenity to number 9 Beulah Road and is an overdevelopment of the site.

NEIGHBOURS

9 properties were consulted

9 BEULAH ROAD – Objection - loss of light and outlook, development is significantly out of scale and unsympathetic

13 BEULAH ROAD – Objection - bulky, overbearing and out of scale in general and to the conservatory which it is to replace, loss of privacy and light

Issues and Considerations:

The main issues that arise with this application are considered to be the following:

- Amenity of Neighbouring Properties
- Design Issues
- Retention of Landscaping

Amenity of Neighbouring Properties

No. 9 and No.13 the immediately adjacent neighbours have both objected to the proposal. Dealing with the impact on these properties separately it is considered that the proposal may have some impact on light and outlook to No. 9, the property to the south. The two storey element is just under 1m away from the shared boundary with this property and using the 45° rule to ascertain impact on outlook by measuring from the nearest first floor window the line cuts across the last 0.5m of the corner of the proposed two storey extension.

It is therefore considered that there may be some loss of light and outlook to No. 9, particularly from the first floor rear facing bedroom window however, although not quite meeting the 45° line, the depth of the proposed two storey extension is just beyond this line and therefore it is considered that loss of outlook to No. 9 is not so significant to justify a refusal. No. 9 has side facing first floor windows which are part of a 1970's rear extension to this property, however these serve a landing and a second window to a bedroom and therefore as the landing is not a habitable room and the bedroom has an alternative light source through a rear facing window it is not considered the proposal will have a detrimental impact on these windows. There are also side facing windows at ground floor serving a lounge area, however again there are rear facing windows which will not be affected by this application.

With regards to impact on No. 13 the proposed conservatory will extend 0.5m beyond the existing rear wall of No. 13 and be 1.9m from the shared boundary, and as such it is not considered that this will harm the amenities of No. 13 in terms of loss of light or privacy. Two side facing windows have been deleted from the proposal since first submission and it is therefore considered the proposal is acceptable. No. 13 have also raised concerns with the proposed conservatory due to loss of privacy from the lantern light where occupiers of No. 11 can look up out of it towards the first floor rear facing bedroom window of No.13. It is not considered the proposed lantern light gives rise to any loss of privacy above that which can occur with the occupiers of No. 11 standing in the garden and looking up. Although there are currently trees/vegetation in this area they are not protected and therefore can be removed at any time.

The proposed dormer/rooflights are not considered to be detrimental to neighbouring amenity as they are replacements for existing catslide dormers.

Design Issues

The proposals are considered to complement the existing house, the changes to the front elevation are particularly considered an improvement to the overall appearance of the house. The adjacent neighbours have also objected to the proposals due to the overall scale and the Parish Council has also objected due to overdevelopment of the site. It is considered that the site can easily accommodate the proposals and there are several properties of a similar scale along Beulah Road, most noticeably No. 5 Beulah Road.

Retention of Landscaping

The Council's Tree and Landscape Officer has no objection to the proposal. There is an acacia tree in the rear garden which is relatively close to the rear of the property, however to protect this tree during construction a tree protection condition has been suggested.

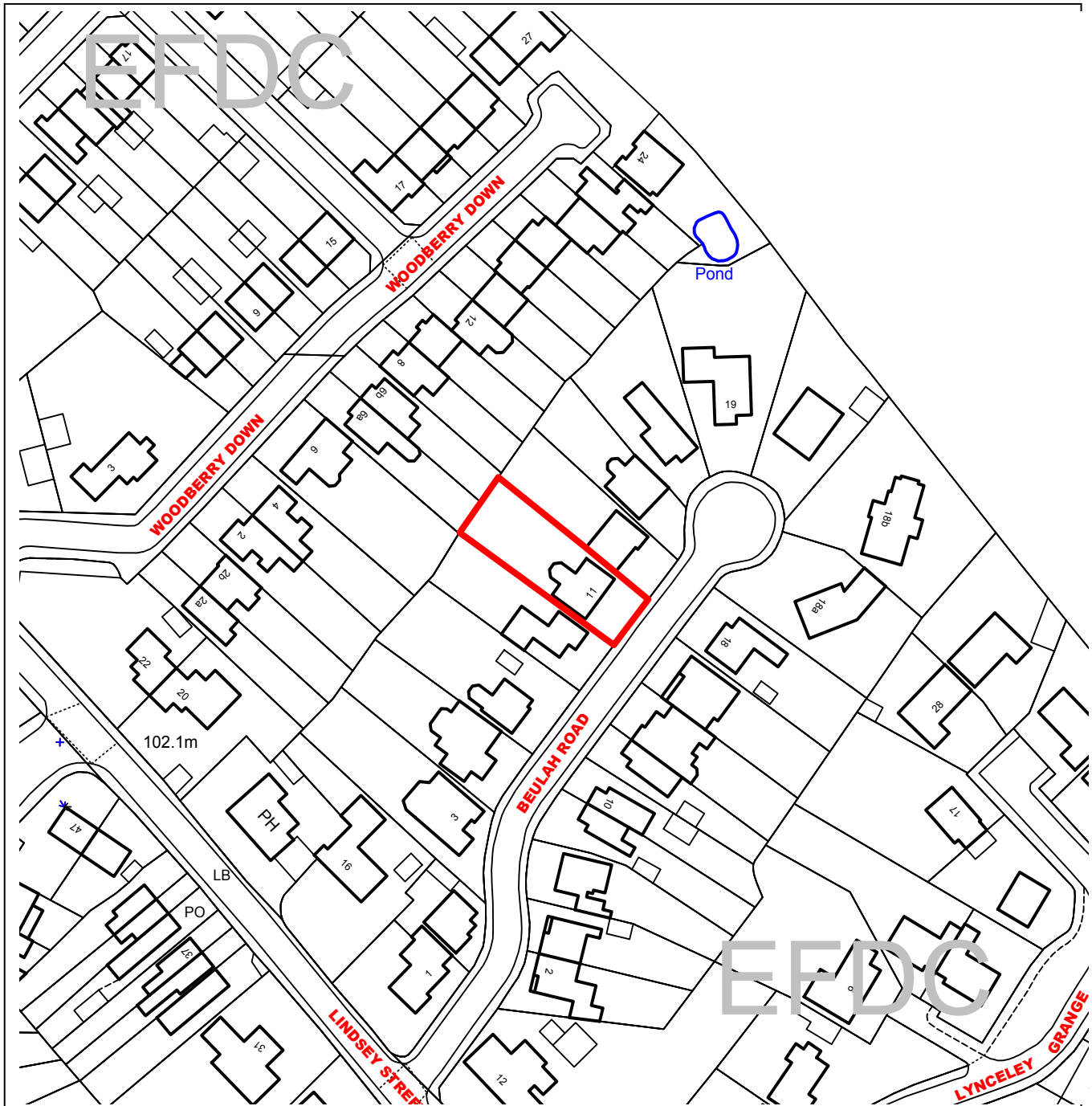
Conclusion:

This is a balanced case, the proposal will have some impact on No. 9 Beulah Road in terms of loss of light/outlook, however all bar one window affected is either a non-habitable room or a second window and this is not considered sufficient justification for a refusal. The proposal is considered to complement the existing property and is therefore on balance recommended for approval.



Epping Forest District Council

Area Planning Sub-Committee East



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Agenda Item Number:	2
Application Number:	EPF/1177/10
Site Name:	11 Beulah Road, Epping, CM16 6RH
Scale of Plot:	1/1250

Report Item No: 3

Application Number:	EPF/1177/10
SITE ADDRESS:	44 Theydon Park Road Theydon Bois Epping Essex CM16 7LP
PARISH:	Theydon Bois
WARD:	Theydon Bois
APPLICANT:	Mr & Mrs B Dean
DESCRIPTION OF PROPOSAL:	Front extension and first floor addition to alter the existing bungalow into a two storey dwelling with additional rooms in the roof space. (Revised application.)
RECOMMENDED DECISION:	Grant Permission (With Conditions)

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Prior to first occupation of the building hereby approved, the proposed window openings in the north and south first floor flank walls shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 3 Materials to be used for the external finishes of the proposed extension, shall match those of the existing building.

This application is before this Committee since the recommendation differs from the views of the local council (Pursuant to Section P4, Schedule A (g) of the Council's Delegated Functions).

Description of Proposal:

This is a revised application following a scheme refused earlier this year under planning ref: EPF/0322/10 and two previous refusals in 2008 planning ref: EPF/1589/08 and 2009 under EPF/0064/09.

The details for this proposal are alterations to the existing bungalow. This involves a front extension and first floor addition above the footprint of the existing bungalow; this will alter the bungalow into a two-storey dwelling with additional rooms in the roof space.

The extension measures 15.0 metres at its deepest and 8.8 metres at its widest at first floor level.

The eaves height measures 5.1 metres and ridge 8.6 metres.

Description of Site:

The subject site accommodates a detached bungalow set in a wide, rectangular-shaped plot of land situated on the west side of Theydon Park Road. The area is residential and the street scene is made up of a variety of styles and designs of dwelling houses built to a staggered front building line. The ground level of the street slopes downwards in a southerly direction hence, the ground level at adjacent site no. 46 is on a lower level in relation to the subject site and no. 42 is at a higher level.

There are no known development constraints relating to this plot of land.

Relevant History:

- EPF/0227/85 – Single storey rear extension. Grant permission/ conditions
- EPF/0866/85 – Single storey front extension. Grant permission/ conditions
- EPF/1589/08 – Single storey side and front extensions and first floor addition to alter the existing bungalow into a two-storey dwelling with additional rooms in the roof space.

Refused for the following reason:

The proposed first floor extension, due to the resultant overall height, bulk and design will result in a visually prominent dwelling within the street scene and an overbearing building in relation to adjacent sites, resulting in loss of light to these neighbours. This will be contrary to policies DBE9 and DBE10

- EPF/0064/09 - Front extension and first floor addition to alter the existing bungalow into a two storey dwelling with additional rooms in the roof space (Revised application)

Refused for the following reason:

The proposed extensions would result in undue loss of light to the detriment of the amenities of the occupants of 42 Theydon Park Road, and have an overbearing detrimental impact on both this and the neighbour at No. 46 Theydon Park Road, such that it will be contrary to policy DBE9 of the Adopted Local Plan and Alterations.

Appealed lodged and dismissed

- EPF/0322/10 - Alterations to the existing bungalow dwelling that include the erection of single and first floor front extensions, and a first floor addition that will span the entire ground floor this will alter the bungalow into a two-storey dwelling with additional rooms in the roof space.

Refused for the following reasons:

1. There are inaccuracies and discrepancies with the block plan and first floor plan concerning the depth of the first floor north flank wall and the position of the dwelling in No. 42 (separation distance, position and angle in relation to the subject site), this does not allow an accurate assessment to demonstrate there will be no harm to neighbouring occupier's amenity.
2. The proposed first floor extension, due to the overall height, bulk and design will result in a visually prominent and overbearing building in relation to adjacent sites, which will be out of keeping in the street

Policies Applied:

Local Plan and Alterations:

CP2 – Protecting the quality of the built environment

H4A – Dwelling Mix

DBE9 – Amenity considerations.

DBE10 – Extension design criteria.

Summary of Representations

8 neighbours consulted and 5 letters of representation received:

38 THEYDON PARK ROAD – Object. This proposed dwelling is too large and does not fit in with the street scene. Impact of rear aspect on neighbouring properties. Loss of another bungalow. Applicant would need to reduce the size of the dwelling house.

42 THEYDON PARK ROAD – Object. Loss of light as building will be slightly higher than neighbouring properties. Building will be excessively large. Plans are not to scale as it shows No. 46 being larger, which is incorrect as it makes the proposal less invasive. Loss of privacy. Rear extension goes beyond neighbouring properties. Restricts light and outlook. Front extension will restrict light and limit parking. In breach of restrictive covenant prohibiting forward development. Loss of planting at the front of the site. Loss of another bungalow. The applicant states no trees will be affected however; two trees have already been removed from the site. This would be a commercial development and purely a business opportunity.

61 THEYDON PARK ROAD – Object. (Supports comments made by 42 Theydon Park Road)
In particular, concerned that street parking will be increased, there being no provision for a 6 bed house.

46 THEYDON PARK ROAD – Object. (Same objection as previous)
Concerned that rear building line extends further back than the original building line and their building. No drains shown and concerned that additional sewage requirements may not be met. Loss of privacy. Plans show no 46 as larger than it is.
In addition, what provision has been made for sewage?

40 THEYDON PARK ROAD – Object. This application is the same as previous. Object as size, mass is out of keeping and will create more parking problems. Loss of another bungalow. Will result in loss of light. Create more parking problems.

THEYDON BOIS PARISH COUNCIL Objects:

We note the modifications to the previous application EPF/0322/10 – In particular the reduction in the height and bulk. However, these modifications do not overcome all our original objections and concerns. There remains an issue with the rear building line which we consider would have a detrimental impact on the neighbouring property, resulting in a loss of amenity for the neighbour at number 42.

We would also comment that as a Parish Council we have consistently objected to the conversion of bungalows into larger two storey dwellings and have expressed concerns about the ever increasing trend for the re-development of bungalows in our village to the severe detriment of the overall housing mix.

Issues and Considerations:

The main issue is whether this revised scheme has overcome the previous reasons for refusal. Also considered is the design of the building, the appearance within the street scene and amenity of neighbouring occupiers.

Dwelling Mix

The street scene is varied with a suitable mix of dwelling sizes. PPS1 supports the best use of urban land and the size of the plot is substantial enough to accommodate such a development. This proposal will not affect the dwelling mix and as such it complies with policy H4A.

Neighbouring occupiers amenity

The drawing numbered 1267/8 – shows the block plan as proposed and the footprint of the building in relation to neighbouring occupiers.

The first floor element for the proposed two-storey building, will be set in 1.0m from the boundary with the adjacent plot to the south, No. 46, and this building is additionally positioned approximately 2.8 metres from the subject boundary. As a result of the position of the building, the proposal will not result in any harm to neighbouring occupiers' amenity.

Turning to the immediate neighbour to the north, No. 42, the ground level and as a consequence the building for this property is at a higher level approximately 0.5 – 0.6 metres when compared with the ground level of the subject site. The only side window is on the single storey element and this serves as a secondary window.

The second reason for refusal under EPF/0322/10 was for inaccuracies with the plans. This concerns the position of the first floor as it relates to the dwelling to the north boundary with the subject site.

The agent informs us this survey was carried out from the subject site as they were not granted permission to enter into the grounds of No. 42 to carry out a detailed survey of their site. Following a site inspection and from the Council's ordnance survey plans, the drawings are on balance as reasonably accurate as depicted.

The ground floor window positioned on the flank wall facing onto the site serves as a secondary kitchen window. It is considered the proposed first floor will maintain an acceptable setback from the property and will therefore not result in loss of light to this secondary window. The proposal will not result in excessive loss of amenity enjoyed by the immediate neighbouring occupier.

It is considered there will be no harmful impact to neighbouring occupier's amenity with this revised scheme.

Design and appearance within the street

The size, scale and mass of the building, specifically the roof form, has been revised with the large front gable altered to a hip end roof form. The overall height of the building has also been reduced by 0.5 metres resulting in an apex.

This significantly reduces the bulk of roof and takes into account the reason for the previous refusal in 2009 and for revised application made earlier this year under EPF/0322/10.

The building will be set in 1.0 metres from the north and south boundaries and the height, bulk and scale as revised is acceptable.

The development will result in a two-storey building that will be in keeping with the size of buildings in adjacent plots and the overall appearance will compliment the buildings styles in the street scene.

Comments on objections received

The objections received from immediate neighbours and Parish Council have been reviewed and considered. It is the officers view that the revised application overcomes the reasons for the previous refusal and all material factors raised have been taken into consideration, however there is no policy that supports a refusal and on balance the recommendation is for approval.

Conclusion

This revised scheme overcomes the previous reasons for refusal. The proposed alteration of the bungalow into a two-storey dwelling is acceptable as the design and appearance of the modified building will be visually in keeping with neighbouring two-storey dwellings in the street and will not detrimentally impact on the amenities of neighbouring occupiers.

It is therefore recommended for approval with conditions.

Report Item No: 4

APPLICATION No:	EPF/1209/10
SITE ADDRESS:	Weald Hall Care Home Weald Hall Lane North Weald Epping Essex CM16 6ND
PARISH:	North Weald Bassett
WARD:	Epping Lindsey and Thornwood Common North Weald Bassett
APPLICANT:	Mr P Sohal
DESCRIPTION OF PROPOSAL:	Single and one and a half storey extensions to existing care home to provide 9 additional bedrooms and improved facilities. (EMI) (Revised application)
RECOMMENDED DECISION:	Refuse Permission

REASON FOR REFUSAL

- 1 The site is within the Metropolitan Green Belt where development is by definition harmful. The applicant has provided no very special circumstances to justify the proposals and accordingly the development is contrary to policy GB2A of the Adopted Local Plan and Alterations and PPG2.
- 2 The proposals result in additional accommodation in a rural and isolated location, encouraging dependence on private car use, contrary to the aims and objectives of policies CP1, ST1 and ST2 of the Adopted Local Plan and Alterations.
- 3 Insufficient information is provided to assess whether the development can be accommodated within the existing, committed or planned health care infrastructure capacity of the locality, contrary to policy CP3 of the Adopted Local Plan and Alterations.

This application is before this Committee since it has been 'called in' by Councillor Breare-Hall (Pursuant to Section CL56, Schedule A (h) of the Council's Delegated Functions) and since the recommendation differs from the views of the local council (Pursuant to Section CL56, Schedule A (g) of the Council's Delegated Functions

Description of Proposal:

The applicant seeks consent for single and one and half storey extensions (with accommodation at first floor provided partially above the eaves) to provide an additional 9 bedrooms and a new relocated laundry facility.

All rooms would be en-suite with sufficient space to meet current Council minimum standards regarding access and mobility.

There has been no physical change to the development from that recently refused under EPF/2312/09, instead this application seeks the Council's views towards the scheme in light of additional information supplied within the body of the previous Design and Access Statement and within a letter of support from the Alzheimers Society.

Description of Site:

The application site is an existing 38 bed care home for elderly residents suffering from Alzheimers and senile dementia (as indicated from information submitted in support of the application).

The site is well established, has been extended historically and is located adjacent North Weald Airfield at the end of Weald Hall Lane a single track lane.

The site is within the Green Belt and has no immediate neighbouring plots with nearby development evolving either in a ribbon along the highway or in clusters of existing or historic farm buildings.

Relevant History:

EPF/1143/90 – Alterations and extensions - Approved

EPF/0060/94 – Extensions and Alterations –Approved

EPF/1260/94 – 1st Floor bedroom en-suite accommodation & corridor – Approved

EPF/1532/96 – New Fire exit, porch and various external alterations - Approved

EPF/2312/09 – Single and one and a half storey extensions to existing care home to provide 9 additional bedrooms and improved facilities – Refused

Policies Applied:

Government Policy

PPS3 – Housing – Published November 2006

Epping Forest District Local Plan and Alterations

CP1 – Achieving Sustainable Development Objectives

CP2 – Protecting the Quality of the Rural and Built Environment

GB2A – Development in the Green Belt

DBE4 – Design in the Green Belt

DBE9 – Loss of amenity

ST1 – Location of development

ST2 – Accessibility of development

ST6 – Vehicle Parking

I1A – Planning Obligations

Representations Received

5 neighbouring properties were consulted a single letter of objection was received as follows:

Hayleys Manor: Object due to Intensification of activities and traffic on a narrow lane, potential increase in traffic parking and turning in the narrow lane and external lighting. Issues are also raised regarding provision for waste effluent, issues relating to requests for listing and speculation regarding future operation are also raised but can not be considered as part of this application.

North Weald Parish Council: Strongly supports this application

Issues and Considerations:

Application EPF/2312/09 was refused for the following reasons:

1) The site is within the Metropolitan Green Belt where development is by definition harmful. The applicant has provided no very special circumstances to justify the proposals and accordingly the development is contrary to policy GB2A of the Adopted Local Plan and Alterations and PPG2.

2) The proposals result in additional accommodation in a rural and isolated location, encouraging dependence on private car use, contrary to the aims and objectives of policies CP1, ST1 and ST2 of the Adopted Local Plan and Alterations.

3) Insufficient information is provided to assess whether the development can be accommodated within the existing, committed or planned health care infrastructure capacity of the locality, contrary to policy CP3 of the Adopted Local Plan and Alterations.

The main issues that arise with this application are whether the reasons for refusal above have been overcome and issues previously considered, mainly:

- The need for Care accommodation
- The principle of development in the Green Belt
- The Sustainability of this location
- Design Issues
- Neighbour issues
- Highways, access and Parking Issues
- Other matters

Principle of provision of care accommodation

Policy H1A recognises that the need for market housing has been met through the Council's land allocations, however applications will continue to be considered for windfall sites or areas of previously developed land, policy H2A reaffirms this view.

Policy H9A and supporting text acknowledges the increasing need for mobility housing as a result of an increasing elderly population who typically suffer with greater levels of disability or dependency as people live longer and develop these disabilities. The aging population is a national trend demonstrated by the national census data and identified in the Council's last Housing Need Survey in 2003. Therefore, in principle additional accommodation that would assist in meeting the need for care facilities in the District is accepted. Furthermore the proposals are considered to accord with the objectives of the draft Housing Strategy 2009-2012 supporting older people and other vulnerable groups in accommodation suitable for their needs with appropriate levels of support.

However, policy H1A also sets out that previously developed land in itself does not justify development as sites which rely solely on private car use and are distanced from local services may not be suitable for development. Whilst a need for accommodation is realised generically in respect of the District, no evidence has been provided to demonstrate that this need is in the North Weald Area, or that no alternate, better located and less isolated site is available.

This revised submission provides a letter of support highlighting the increased care need for Dementia nationally and that Epping Forest has 20 Dementia specific homes at present. The Alzheimer's Society continues to indicate that rural care accommodation is more popular due to a

general trend of larger grounds and these increasing the quality of life for occupants. This advice does not indicate whether there is a shortfall of accommodation for Dementia needs in Epping Forest and it does not specify whether the existing or additional accommodation caters for a local or indeed District need as oppose to the national need. This letter also does not examine issues relating to isolated communities and quality of life resulting from isolation from services and facilities. There is no reference to any Care Regulatory Standards or Primary Care Trust statistics.

There is no indication beyond the size of grounds associated with Greenfield sites, why satisfactory additional care accommodation can not be provided in more urban areas in accordance with Council policies.

Principle of development in the Green Belt

The provision of additional care accommodation in the Green Belt is not considered an acceptable exemption to the Green Belt policies of restraint as identified by policy GB2A. The proposals are therefore by definition harmful to the Green Belt.

The applicant has provided no demonstration that the extensions proposed are not harmful to the openness of the Green Belt and with extensions proposed to the building footprint, particularly those which could be viewed in addition to the existing mass, from Weald Hall Lane and the countryside to the north of the site, the proposals are considered materially harmful to the open appearance of the Green Belt. Furthermore the original property has benefitted from various previous extensions.

The applicant was advised in pre-application correspondence that the site was within the Green Belt and that in principle objections would require justification for a departure from usual policies. No very special circumstances have been supplied accompanying this application and the generic need for care facilities is not considered very special circumstance, particularly in light of previous extensions.

Sustainability Issues

The site is situated at the end of Weald Hall Lane a narrow track, some distance from the nearest village which has only limited facilities. There is no footpath along the lane and access to the site is dependant predominantly on private car use. Whilst the proposals provide care accommodation for an aging population, no information is provided to indicate that there is need in this area any more than other, more suitable urban locations. The proposals would result in an increase in occupants separated from any offsite recreation or transport facilities. The proposals conflict with the objectives of Policy CP1.

Design issues

In respect of design, no issues are raised relating to the design and appearance of the proposals other than that the development would further extend the footprint of the development which results in additional visual harm to the surrounding Green Belt.

Neighbouring amenity

The development is well separated from neighbouring properties therefore no adverse impacts arise to neighbours.

In respect of existing occupants, the proposals result in a reduction in amenity space onsite and potentially the further accommodation may obscure the outlook from some of the existing rooms and recreation areas. This is not unacceptable with similar relationships between blocks not uncommon.

Highways and Access issues

Weald Hall Lane is already cited as being a narrow track unsuitable for large volumes of traffic. The proposals do not represent a significant increase in vehicular movements for staff or service

vehicles as the premises already exist and the additional rooms would not likely significantly increase vehicular demand aside from potential visitor traffic. There is a reasonable provision of parking onsite and at the staffing levels referred to in the supporting documentation, no additional parking would likely be required.

Access to the site remains unchanged and no objection has been raised from highways.

Other Matters

The proposals would result in the provision of an additional 9 residents in the North Weald area all with established health problems. No indication has been provided to confirm whether these new residents would be from the surrounding Parish or District or elsewhere. These residents would be registered with local healthcare providers and would likely place added burden on the Primary Care Trust either as additional patients or in respect of administration for the NHS redistributing funding accordingly. No S106 contributions have been proposed for the NHS and accordingly objections are raised in respect of policy I1A.

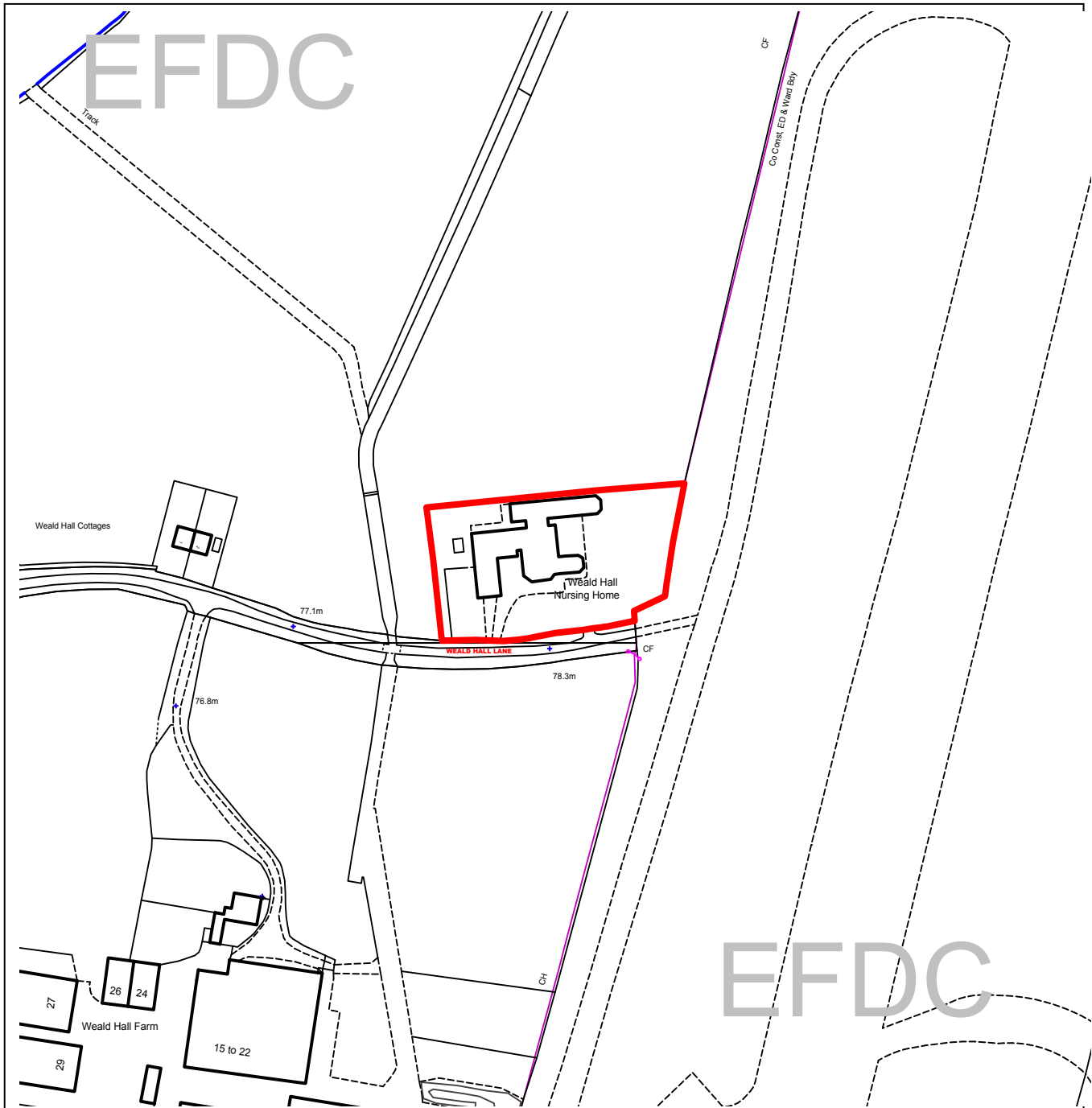
Conclusion:

The applicant has failed to overcome the reasons for refusal previously issued and accordingly Officers recommend refusal for the same reasons.



Epping Forest District Council

Area Planning Sub-Committee East



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Agenda Item Number:	4
Application Number:	EPF/1209/10
Site Name:	Weald Hall Care Home, Weald Hall Lane, North Weald, CM16 6ND
Scale of Plot:	1/2500

Report Item No:5

APPLICATION No:	EPF/1226/10
SITE ADDRESS:	41 Duck Lane Thornwood Epping Essex CM16 6NF
PARISH:	North Weald Bassett
WARD:	Epping Lindsey and Thornwood Common
APPLICANT:	Mr Alan Peck
DESCRIPTION OF PROPOSAL:	Two storey rear extension.
RECOMMENDED DECISION:	Grant Permission (With Conditions)

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed extension, shall match those of the existing building.

This application is before this Committee since the recommendation differs from the views of the local council (Pursuant to Section P4, Schedule A (g) of the Council's Delegated Functions).

Description of Proposal:

Two storey rear extension measuring 6.2m wide, 3m deep with a gable end to a maximum height of 7.2m. The proposal includes the addition of a Juliet balcony to the first floor rear facing window. There are no side facing windows proposed.

Description of Site:

41 Duck Lane is a two storey detached property linked to the neighbouring property by the garage. It is located on the edge of the village of Thornwood, the last property within a row of residential properties and sides and backs onto open fields. The property is not within a Conservation Area and is not within, but is on the boundary with the Metropolitan Green Belt.

Relevant History:

EPF/0220/07 – Two storey side and rear extension and front porch – Refused

EPF/1575/07 – Two storey front and single storey rear extensions. (Revised application) – Refused

EPF/0501/10 – Certificate of lawful development for a proposed two storey rear extension - Lawful

Policies Applied:

Epping Forest District Local Plan and Alterations

DBE9 – Impact on Amenity

DBE10 – Extensions to Dwellings

GB7A – Conspicuous Development from or within the Green Belt

SUMMARY OF REPRESENTATIONS:

EPPING TOWN COUNCIL: Council objects to this application on the grounds that it is detrimental to the amenities of the adjacent residents, including loss of light and loss of privacy. There is still concern regarding the site boundary.

NEIGHBOURS

1 property was consulted

39 DUCK LANE – Objection – loss of light and privacy

Issues and Considerations:

The main issues that arise with this application are considered to be the following:

- Amenity of Neighbouring Properties
- Design Issues
- Green Belt

Amenity of Neighbouring Properties

No. 39 has objected to the proposal due to loss of light and privacy. With regards to loss of light the properties are currently staggered and form reverse footprints of each other. At present No.41 extends some 3.9m beyond the main rear wall of No. 39 and with this proposal this will extend to some 6.9m. The 45° line when measured from approximately the centre of the nearest first floor window of No.39 just meets the corner of the proposed extension as there is an approximate 5m gap between the main built form of the properties where the two garages are attached.

Although it is considered that the proposal will have some impact on the natural light currently received by No. 39, it is considered that the certificate of lawful development (CLD) application (EPF/0501/10) clearly holds some weight in the assessment of this current planning application. Due to the regulations within the General Permitted Development Order (GPDO) the CLD application was set in from the south boundary rather than lining up with the existing south flank wall of the property. This was due to the GPDO regulations stating that if within 2m of a boundary the height of the eaves of the enlarged part must not exceed 3m. Therefore this current proposal can be built as permitted development at present, but just excluding this southern section. The proposal granted lawful under the CLD can be built regardless of the outcome of this current planning application. Therefore the impact of the development on No. 39 would be the same regardless of which proposal is built, as the southern strip of this proposal alone would have no

detrimental impact on the amenity of No. 39. This 'fallback position' regarding permitted development has been argued and accepted on appeal decisions.

In terms of loss of privacy the proposal brings the main rear wall out by a further 3m, which does bring windows further into the rear garden. However it is not considered that this will give rise to any additional overlooking than presently can occur. No. 39 has suggested that the Juliette balcony proposed to the rear would exacerbate overlooking, however although it is appreciated that a Juliette balcony may give rise to a greater perception of overlooking it is not considered to give rise to any additional overlooking above that of a traditional window.

Design Issues

The proposal follows the design of the existing house with the rear facing gable being continued. Although it creates a deep property, there is no consistent building line to this row of properties. The proposal will be visible from Duck Lane due to the open nature of the site, however it is not considered excessively detrimental to the appearance of the streetscene.

Impact on the Green Belt

The proposal will be visible from the surrounding area as it is the last property within a group which borders green belt land. However, given that it is a residential extension and will be viewed as part of a residential group of buildings it is not considered to have a detrimental impact on the character and openness of the Green Belt.

Other Issues

The Parish Council have raised concerns regarding the location of the boundary and its impact on the lawful permitted development. This has been checked on site as part of the assessment of the CLD application and the boundary as indicated on the submitted location plan has been found to be correct.

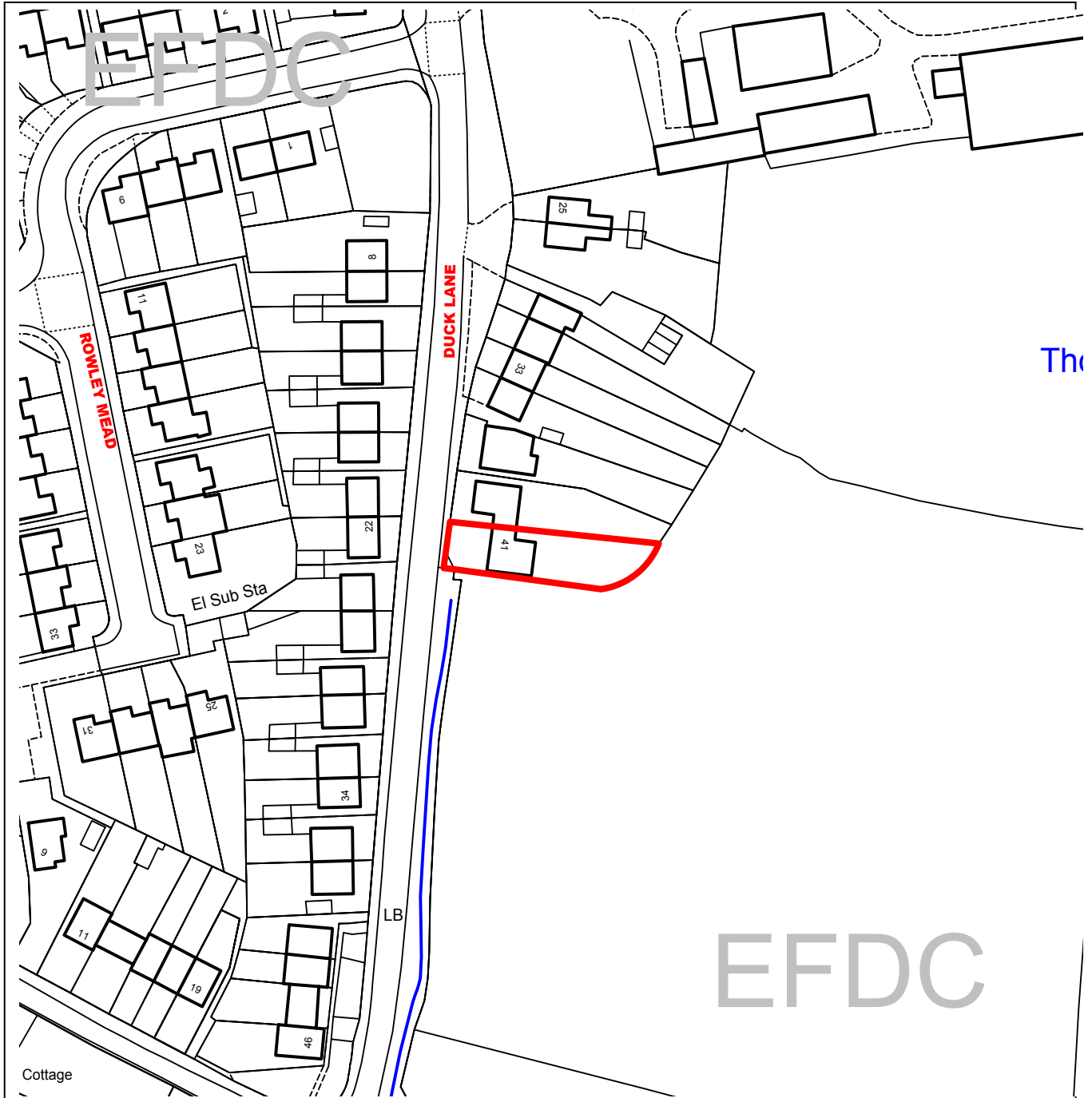
Conclusion:

This is a balanced case as the proposal is for the whole two storey extension and has been assessed as such; however the previously determined lawful CLD application (EPF/0501/10) for a slightly smaller rear addition is considered a material consideration to this proposal. Although there is some impact on light to the neighbouring property it is not considered, given the above lawful development, that this would be any more harmful than the works that can be done without planning permission and therefore there is no sufficient justification for refusal. As such, approval is therefore recommended.



Epping Forest District Council

Area Planning Sub-Committee East



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Agenda Item Number:	5
Application Number:	EPF/1226/10
Site Name:	41 Duck Lane, Thornwood, Epping, CM16 6NF
Scale of Plot:	1/1250