

## Extract from Area Plans East Agenda from 14 August 2013

<b>APPLICATION No:</b>	EPF/0981/13
<b>SITE ADDRESS:</b>	13 Forest Drive Theydon Bois Essex CM16 7EX
<b>PARISH:</b>	Theydon Bois
<b>WARD:</b>	Theydon Bois
<b>APPLICANT:</b>	Mr M Haque
<b>DESCRIPTION OF PROPOSAL:</b>	Retrospective application for retention of rear conservatory store and external wall mounted air conditioning units at the rear.
<b>RECOMMENDED DECISION:</b>	Grant Permission (With Conditions)

### Click on the link below to view related plans and documents for this case:

[http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH\\_TYPE=1&DOC\\_CLASS\\_CODE=PL&FOLDER1\\_REF=549391](http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=549391)

### CONDITIONS

- 1 The rear conservatory hereby approved shall only be used for storage in connection with the A3 restaurant use of 13 Forest Drive and shall not at any time be used as a seating/dining area.

*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 Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A. (g))*

*This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Directorate – Delegation of Council function, Schedule 1, Appendix A.(f).)*

### **Description of Site:**

13 Forest Drive is a shop unit located within a small parade of shops on the west side of Forest Drive within the built up area of Theydon Bois. Forest Drive has a small parade of shops and then is mainly residential properties to the north and immediately to the south. 13 Forest Drive is currently trading as a restaurant. There is a side service road, which accesses the rear area. The application site is not within the Metropolitan Green Belt or a Conservation Area.

### **Description of Proposal:**

The proposal seeks retrospective consent for the retention of a rear conservatory and external wall mounted air conditioning units at the rear. This application has been submitted following an

ongoing enforcement investigation. The rear conservatory measures 3.7m deep and 6.9m wide with a maximum height of 3.1m. The air conditioning units are located beside the conservatory to the rear. There are four wall mounted units at a maximum height of 2.9m. This application does not include the kitchen extractor duct which is the subject of enforcement action.

### **Relevant History:**

EPF/0261/09 – Change of use from A1 to A3 – App/Con

EPF/0820/12 - Proposed outside seating area at the front, retention of front canopy, rear conservatory, external wall mounted air conditioning units, external extractor duct and front signage – Refused

EPF/2131/12 - Proposed outside seating at front and retention of front canopy, rear conservatory, external wall mounted air conditioning units, external extractor duct and front signage (Revised Application) - Refused

EPF/1234/13 - Retrospective advertisement consent for canopy, fascia sign and projecting sign – Concurrent application

### **Policies Applied:**

#### Epping Forest District Local Plan and Alterations

CP2 – Protecting the Quality of the Rural and Built Environment

DBE3 – Design in Urban Areas

DBE9 – Loss of Amenity

RP5A – Development likely to Cause a Nuisance

The above policies form part of the Council's 1998 Local Plan. Following the publication of the NPPF, policies from this plan (which was adopted pre-2004) are to be afforded due weight where they are consistent with the Framework. The above policies are broadly consistent with the NPPF and therefore are afforded full weight.

### **Summary of Representations:**

THEYDON BOIS PARISH COUNCIL – Objection – We note that this application does not include the extractor fan/ducting to the side elevation which amongst other features remains the subject of outstanding Enforcement Notices.

As previously stated we have no objection to the canopy. However, we regret but we cannot see that anything has materially changed in relation to the other offending issues and thus the objections which we voiced in relation to application numbers EPF/0737/12, 0820/12 and 2131/12 remain essentially unchanged.

Our objections to the original application number EPF/0737/12 are repeated below for ease of reference. **[NB: This reference relates to a different site and these comments were made in relation to EPF/0820/12]**

*TBPC Comments on EPF/0737/12*

*'Recommendation: Strong Objection*

*When permission was originally given for a change of use on these premises from A1 to A3, it was a marginal decision given after careful consideration of the proposed plan for the restaurant. Regrettably, the restaurant has not been developed according to that plan. The change in the position of the kitchen has resulted in the external extractor duct being positioned on the side elevation of the building as opposed to the rear. This is unacceptable and has a direct impact on*

*the amenity of the neighbouring apartments which overlook the premises. Residents in these apartments have complained about the food cooking smells which are being emitted.*

*We are also strongly opposed to the proposed outside seating at the front of the premises. This will have a detrimental impact on the neighbouring residential properties due to potential noise. The nature of the buildings in Forest Drive being tall on both sides of the road tends to funnel and amplify any noise. Although the Belgique has seats outside their property on the opposite side of the road, these premises close at 5.30pm whereas the restaurant opens at 5.30pm and closes at 11pm.*

*The internally illuminated signage at the front of the property is also at odds with the other retail units in Forest Drive. This Council has consistently opposed internally illuminated signs in this part commercial part residential area of the Village and this policy has been respected by the other retail outlets. An internally illuminated sign was recently refused permission on the Bull Public House, which is close to the property in question, as it was deemed to be out of character in this part of the Village.*

*With regard to the rear conservatory, this is currently being used for storage and it is proposed that this will continue to be its main purpose. We do not believe that a conservatory is a suitable structure for storage in a commercial building.*

*Finally, on a more positive note we see no reason why the front canopy cannot be retained.'*

## NEIGHBOURS

33 neighbours were consulted and the following responses were received:

11B FOREST DRIVE – Objection – loss of parking area to rear, concern with noise from extractor fan (not part of this application)

5 THE HEIGHTS – Objection – matter has been ongoing for two years, concern with noise and appearance of extraction unit (not part of this application), plans did not originally show a conservatory, issues of parking due to restaurant use

THE HEIGHTS RESIDENTS ASSOCIATION – Objection – appearance and noise from extraction duct (not part of this application)

2 THE HEIGHTS – Objection – noise of air conditioning units

## **Issues and Considerations:**

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

- Design Issues
- Impact on Neighbouring Amenity

### Design Issues

The conservatory is rather domestic in appearance for a commercial property, and an unusual choice of addition for storage purposes, however it is to the rear of the site within a service yard and is not considered so out of keeping within the surrounding area (which includes rear domestic gardens) to justify a refusal.

The air conditioning units are rather utilitarian; however they are again located to the rear of the property within the service yard and therefore in this location are considered acceptable and are standard in appearance.

### Amenity

The conservatory may be acceptable in terms of amenity but only if used for storage as stated and a condition can be applied should the application be approved to ensure it's end use. Without a condition ensuring that the conservatory can only be used for storage purposes, the conservatory may have a potential impact on neighbouring amenity if used for customers to dine in, as is very close to the rear gardens of the properties in Buxton Road and adjacent to 'The Heights'.

The Council's Environmental Health team were consulted on this application, and although previously the Environmental Health team have objected to the applications, this has only been on the basis of the extractor duct to the side (not part of this application) and the Environmental Health team have no comment to make on this current application. The air conditioning units are therefore not considered detrimental to surrounding amenity.

### Comments on Representations Received

The extraction duct is not part of this application and it is understood that this will be applied for under a separate application. The canopy and signage are part of the concurrent application EPF/1234/13 and therefore being dealt with separately. The reference to the outside seating area within the Parish Council Comments has been removed from the description. This is because planning permission is not required for this element, as the area to the front in question is within the ownership of the restaurant and therefore outside seating would be an ancillary use not requiring planning permission.

### Conclusion:

This retrospective application is, given the above, considered acceptable development and approval subject to conditions is recommended.

***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: Marie-Claire Tovey  
Direct Line Telephone Number: 01992 564371***

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



# Epping Forest District Council

## Area Planning Sub-Committee East



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<b>Agenda Item Number:</b>	<b>6 &amp; 7</b>
Application Number:	EPF/0981/13 and EPF/1284/13
Site Name:	13 Forest Drive, Theydon Bois CM16 7EX
Scale of Plot:	1/1250