



Life by Design\*

**Planning Inspectorate**

Room 3A Hawk Wing,  
Temple Quay House,  
2 The Square,  
Temple Quay  
Bristol, BS1 6PN

**Date**

February 2022

**Planning Appeal**

**Full Statement Of Case**

Proposed detached 3 bedroom dwelling in an existing side garden of 7 Brooklyn Avenue, Loughton.

**Planning Application Number: EPF/1306/21**

Prepared by Rebecca Dockerill on behalf of 101010 for a self build property.



Rebecca Dockerill

**Director** | 101010

mobile: 07717773900

site: [www.tententen.co.uk](http://www.tententen.co.uk)

email: [rebecca@tententen.co.uk](mailto:rebecca@tententen.co.uk)

101010

**The Studio**, 3 Kensington Park,  
Oak Hill Rd, Stapleford Abbots,  
Essex, RM4 1AF

[www.tententen.co.uk](http://www.tententen.co.uk)



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## **Full Statement Of Case**

Prepared by 101010

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## **Date**

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## **Introduction**

This appeal is submitted on behalf of appellants Mr + Mrs Nooitgedacht in opposition to Epping Forest District Council's decision to refuse planning permission, for the erection of a single detached house to the side of 7 Brooklyn Avenue, Loughton, Essex, IG10 1BL. Despite the recommendation for approval by the planning officer, the application was refused at committee.

## **Description of Proposal Site & Surrounding Area**

### **Site Description**

The site has an area in excess of 240m<sup>2</sup>. It is situated to the side of 7 Brooklyn Avenue, which fronts Priory Road. At present, the rear elevation has access onto Brooklyn Avenue, a public road, and is within a residential development. The site is within the town of Loughton as (defined as a town and the district Centre by Epping Forest District Local Plan documents) and is a short walk to the high street, underground station, schools and many other facilities.

### **Host Dwelling**

At the time of application, some works are underway to the host dwelling, which will include the relocation of the driveway to the principle elevation on Priory Road, removal of some windows and trees and an infill porch to the ground floor below the existing main bathroom. These alterations to the host dwelling are indicated on the original planning application, with the Local Authority confirming planning is not required for those works. The relocation of the driveway ensures the property reads correctly on the street in conjunction with the principle elevation of house. The felling of trees in accordance with the provided Arboricultural Statement has been conducted prior to appeal, due to the requirement of Building Control for the porch's foundations and being outside of the nesting season. No trees on site are protected.

Some images have been taken of the current site before the driveway relocation, which show how awkwardly the principle elevation reads on Priory Road. The existing access on to Brooklyn Avenue is precarious due to the angle it meets the road, combined with the lack of visibility from the tall fences on either side and parked cars on the footway. These images can be located in **Appendix 1** at the end of this document.

### **Locality**

The site is located on a corner plot, where Brooklyn Avenue and Priory Road meet. Brooklyn Avenue and Priory Road are traditional streets, characterised by



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a mixture of bungalows and predominantly two storey dwellings, although some now have loft conversions. There are examples of semi-detached and detached dwellings along both roads.

The prevailing style of the area is 1930's "Tudorbeathan" as it's been coined, featuring mock 'timber framed' gables and predominantly render façades. Some clay brick and tile detailing can be found, although this varies in colour along the road. This ubiquitous architecture is carried across the various building forms and sizes. Photographs showing a cross-section of neighbouring house styles and sizes can be located in **Appendix 1** at the end of this document.

Priory Road provides service access to the rear of the High Street, so some more industrial buildings and flats can be seen further along this road. Priory Road runs parallel with the High Street and is a loop road becoming Churchfields joining back on to Brooklyn Avenue to the south. At the southern end of Priory road is St Mary's Close, a gated community of 3 detached dwellings.

Continuing down Brooklyn Avenue as it becomes Brook Road it reaches the corner of Sparelease Hill and Tycehurt Hill. On this corner is a similar shaped plot, with planning history of a corresponding development to that sought in this instance. This planning example was included in the original planning application.

## Description of Proposal

A self-build 3 bedroom detached house to the side of 7 Brooklyn Avenue with associated landscaping to the existing property.

The proposed dwelling's design, external finishes and proportions are harmonious with the neighbouring properties, without a loss in privacy. Much time was spent developing the design and layout from all vantage points to ensure it not only accorded with the Local Authority's requirements, but went further to surpass national guidelines.

Streetscape visuals were produced to model how the new dwelling will read from the street and main approach, and these were included within the planning application. It is likely the location of the site on a corner resulted in an unusually large number of neighbours being consulted, which in turn led to a decision by committee who cited three main reasons for refusal.



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## Planning Objections

### Local Authority Decision

This appeal has been lodged against the Council's decision to refuse planning application **EPF/1306/21**. After due consideration beyond the statutory deliberation period, the application was refused by the Council's Planning South Committee on 6th October 2021 for the following three reasons:

*"1. The Council cannot be certain beyond reasonable scientific doubt that the proposed development either alone or in combination with other developments within the district will not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the proposed development should be permitted. Also, in the absence of an appropriate legal agreement to mitigate such adverse impacts, the proposed development is therefore contrary to Policies DM2 & DM22 of the Local Plan Submission Version 2017, Paragraph 180 of the NPPF 2021, and the requirements of the Habitats Regulations 2017.*

*2. The proposal will appear as a cramped form of development and will also result in the loss of importance green infrastructure to the detriment of the established character and appearance of the locality, contrary to Policies CP2, CP7 & DBE1 of the adopted Local Plan 1998 & 2006, Policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.*

*3. The proposed development would result in the loss of on-street parking provision to the detriment of highway safety, contrary to Policies ST4 & ST6 of the adopted Local Plan 1998 & 2006, Policy T1 of the Local Plan Submission Version 2017, and the NPPF 2021."*

A pre-application was made and two points were identified by the officer, resulting in an amended scheme being put forward for full planning. Engagement and collaboration was offered and taken up by the Local Authority and duty planning officer by 101010 throughout the determination period. The planning officer recommended the proposal for approval, however, due to the number of neighbours consulted (fourteen) the application was put before committee. No objections were raised by any departments consulted.

Some successful applications for this type of development within the District have permitted and this will be discussed in greater detail under 'District Examples' in the following section, titled **'The Case For The Applicant'**.



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### Local Representations

There were some common themes for objections received from neighbours, the Parish Council and Loughton Resident's Association to the application. The planning officer did not cite any of these issues in their recommendation for approval as they were at odds with the development control consultee's responses and do not accord to current planning policy.

The three issues raised, which relate to the refusal reasons are summarised as follows:

#### SAC

Some concerns around the Special Area of Conservation (SAC) including additional vehicle trips generated by the new dwelling were raised. A Habitats Regulations Assessment (HRA) and draft Unilateral Undertaking (UU) were produced for the planning application. The draft UU was not submitted as required by the LA, who ask for it to be provided upon request. A consent form for council related costs for the resulting S106 was provided with the application.

The draft UU and HRA are in-line with the adopted mitigation measures and the appellants agree to the contributions and associated planning conditions such as an electrical vehicle charging point. This commitment was contained in the original planning application for both the host and proposed dwelling.

Objections to the ULEZ were put forward, but this is more an objection to a policy rather than specific to this application.

#### Overdevelopment

Representations received discuss perceived overdevelopment of the site. The original planning application showed the host and proposed dwelling's would both enjoy private garden sizes in excess of the ideal figure of 100m<sup>2</sup> quoted in the Essex Design Guide<sup>1</sup> and in-line with the local development average. No guidance figure is provided in the local plan, but it infers that local patterns of development should be followed.

The pre-application response described the private amenity space afforded to the proposed property as 'ample':

*"Furthermore, plans show that there would be ample external amenity space for future users of the dwelling..."*

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<sup>1</sup> The Essex Design Guide 2018 Edition (hereafter 'EDG'): pp. 29, Section 1 (Architectural Details) Garden Size, part 1.75.



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Further exploration of this subject is covered in the section, titled **'The Case For The Applicant'**. It must be reiterated that the design respects its surroundings, through careful positioning of windows to prevent loss of privacy or overlooking of neighbouring properties. Large separation distances and considered choice of external materials further ensures a sympathetic design.

### Parking

Some representations discuss on-street parking stress in the surrounding area. The site's close proximity to the High Street, Underground Station and other amenities results in many visiting cars being parked on the pavements. Some neighbours are aggrieved with the current situation, and this cannot be considered an objection to this specific application.

The proposed changes will result in the loss of 1 no. on-street parking space and an increase of 2 no. additional off-street parking spaces overall. There are no current planning policies or directives in this area to support the increase on-street parking provision and the requirement to facilitate off-street parking has been met. This is discussed in greater detail under the following section, titled **'The Case For The Applicant'**.



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## The Case For The Appellant

### Special Area of Conservation

The first refusal reason calls for a legal agreement to mitigate against the perceived adverse impacts to the Epping Forest Special Area of Conservation. A drafted S106 agreement for the undertaking of costs associated with mitigation and monitoring of the EFSAC for the proposed new dwelling, has been provided with this appeal. This will be completed and executed during the appeal process and the figures contained in the agreement have been provided by the council.

Associated planning conditions including the requirement for EV charging provision and facilitating high-speed broadband are accepted by the appellants.

### 'Cramped'

The second refusal reason uses the word 'cramped' which is considered a subjective and ambiguous term - not usually found in planning policy. This document has looked at over-development, and local patterns of development, as these are more generally used terms rooted in planning policy, which the proposal site may be considered against.

The over-development of this site would mean the demands on infrastructure and services would be excessive, with a detrimental impact on the local character - something which this proposal cannot be attributed with. DM9<sup>1</sup> of the draft Local Plan is the main policy cited under this refusal reason. The refusal reason also mentions loss of important green infrastructure, but this is not contained in policy DM9. The proposal was shown to adhere to the requirements of DM9 many times in the original Design and Access Statement, however, as this has been cited as a refusal reason, some further work has been undertaken to demonstrate compliance of the proposal to this policy. Parts D, E H of the policy discuss the design standards for the architecture, landscape, privacy and amenity so these will be explored in greater detail here.

A pattern of development describes the form, scale, massing, building lines and rhythm of the architecture of an area. A pattern of development should by virtue of innovation and design, be more difficult to define over time. The Design Council's view on varying building styles and types is to add interest and variety to the local vernacular. This proposal satisfies the objectives laid out by the Design Council, recommending that Local Authorities avoid *"Too many identical or similar house types (where there is no benefit to the overall architectural integrity of the*

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<sup>1</sup> Epping Forrest District Draft Local Plan, Submission Version 2017 (hereafter 'EF-DLP'): pp. 92, policy DM9 (High Quality Design)



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*scheme from repetition)*<sup>III</sup> without being at odds with the prevailing style. The NPPF discusses the need to deliver a sufficient supply of homes and the variety of houses that this must cover under paragraph 61, with the two applicable types for this application underlined:

*"Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers<sup>25</sup>, people who rent their homes and people wishing to commission or build their own homes<sup>26</sup>)."*<sup>III</sup>

The proposal ensures that the surrounding pattern of development will not be compromised, through respecting existing building lines and garden sizes. This was demonstrated on an illustration within the Design and Access Statement, (shown below), with some further information added. This includes approximate dimensions from neighbouring properties to demonstrate the substantial separation distances achieved.

II Design Council, 'Building for Life 12: Third edition' (hereafter 'BFL'), Design Council, Published by Nottingham Trent University: CADBE for the Building for Life Partnership,

III NPPF: pp. 17, Section 5 (Delivering a sufficient supply of homes) paragraph 67.

### Separation Distances

- ① 21.5m
- ② 19.1m
- ③ 21.6m





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Part E and H of policy DM9 discuss landscaping along with privacy and amenity, highlighting the need for considered landscaping, which provides functional, private amenity spaces. The proposed and host dwelling's windows have been configured to ensure that no overlooking of either gardens will take place.

Subsequent to the original planning application, two further windows have been removed from the north elevation of the host property. These are indicated on the photographs of the works in progress showing the closed up apertures located in **Appendix 1** at the end of this document. These amendments further ensure the proposed dwelling will not be overbearing on the host property.

The separation distances shown on the previous page illustrate that the proposed dwelling is a considerable distance away from neighbouring properties - all of whom will have only their principal elevation viewed. This is considered a public facing elevation, visible from the street and is not considered overlooking or loss of privacy. No private amenity spaces will be overlooked, and there will be no loss of light to these surrounding properties as a result of the proposed development.

## On-Street Parking

The final refusal reason given was the loss of on-street parking with draft policies ST4 & 5 quoted. Neither of these policies, nor the local plan and as a whole require on-street parking or discuss it in any way.

Cllr Pond of the Planning South Committee referenced a proposal for a parking review in this area, and therefore loss of on-street parking was not acceptable. This was then put forward as a refusal reason by the committee with no route forward. Subsequent to this appeal, 101010 contacted Essex Highways, who kindly clarified where this information had originated from as follows:

*"I have reviewed the Area Planning Sub-Committee South webcast, dated 06 October 2021, for application EPF/1306/21, and can confirm that Cllr Pond does not actually refer to any Essex County Council (ECC) or Epping Forest District Council (EFDC) policy/information/documentation, but references the North Essex Parking Partnership (NEPP), and a proposal for a parking review in the location of the application site. I can confirm that at this time no public consultation on this scheme has taken place, and therefore there are no guarantees that any scheme will ever be implemented. Consequently, from my point of view, I cannot see that this possible parking scheme has any bearing on the planning application."*

The full email trail is located in **Appendix 2** at the end of this document. This email goes on to state that as per the original consultee memo to the planning officer, *"there have been no changes to EFDC Policies ST4, ST6 or T1, or any relevant*



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*ECC Highway policies, that does not allow for the loss of on-street parking whilst creating access for off-street parking. Consequently, as per my recommendation for this application, I would reiterate that, from a highway point of view, the proposal is not considered to be contrary to any of the aforementioned policies."*

As mentioned earlier in this document, the existing access on to Brooklyn Avenue is not to current standards, and would not be permitted if part of a current planning application. This application seeks to improve the host dwelling's access and provide acceptable access and parking for the proposed dwelling.

## District Examples

As discussed throughout this document and the Design and Access Statement, there are other district examples of this type of development. To avoid repetition, the case references are listed below accompanied by a brief description. Site layout plans of all the listed applications can be located in **Appendix 3** for quick reference.

- **CHI/0291/67 Tycehurst Hill, Loughton** - Outline. Erection of detached house & bungalow & garage.  
Subsequently extended under application:  
**EPF/2778/19 Tycehurst Hill, Loughton** - Proposed ground floor extension, first floor & roof extensions (including dormer extension), alterations to fenestration including window openings, first floor SW facing balcony & associated landscaping improvement works.
- **EPF/2829/18 Basons Yard, Ongar** - A new four bed roomed detached house to the side of the garage on the remaining car park/spare land.
- **EPF/0907/15 Oakwood Hill, Loughton** - Erection of a 3 bedroom end of terrace house, on land to the side of existing host property: 102 Oakwood Hill.
- **EPF/3282/15 Princes Way, Buckhurst Hill** - Proposed two storey dwelling house including basement to the side of No. 1 Princes Way, Buckhurst Hill.
- **EPF/1786/15 Ivy Chimneys Road, Epping** - Erection of additional attached dwelling house to the side of No.65 Ivy Chimneys Road.
- **EPF/2017/14 Hainault Road, Chigwell** - To split the plot of land to construct a separate detached two storey dwelling with rooms in roof loft involving demolition of the garage and a single storey structure to the side of the existing dwelling and new crossover.
- **EPF/0840/11 Albert Road, Buckhurst Hill** - Proposed two storey dwelling to the side of no.12 Albert Road, including part single storey rear extension and pitched roof over existing and proposed single storey rear extension.
- **EPF/0515/14 Maple Close, Buckhurst Hill** - New end of terrace 4 bed house built on side garden, and two storey and single storey rear extension built on existing house.



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At the time of appeal, there are a number of similar applications over the statutory deliberation period, held in abeyance with resolution to be approved subject to a S106 for mitigation and monitoring. As the SAC issue has prevented the approval of applications for over 2 years, these are the more recent examples and are included in **Appendix 4** as they may have been approved by the time of consideration of this appeal:

- **EPF/2105/20 Chapel Road, Epping** - Erection of a two storey detached dwelling to the side of the existing property
- **EPF/2998/19 Sedge Green, Nazeing** - 3 Bedroom Dormer bungalow to the side garden
- **EPF/1763/19 Torrington Gardens, Loughton** - Proposed x 2 no. bedroom new dwelling to the side of the property.

## NPPF

Throughout the design and planning process it was essential to ensure the proposed dwelling be consistent with the surrounding residential development, of Brooklyn Avenue and Priory Road, as this is the backdrop against which the new dwelling will be read. This will be achieved through coordinating external finishes, detailing, sighting, orientation, access and landscaping of the gardens. Positioning of the rear amenity space to adjoin Brooklyn Avenue, will ensure that an important transition strip of garden remains between the new dwelling and rear boundary. This is sympathetic to locality and ensures alignment with the surrounding building lines. Sympathetic design is discussed within the NPPF. Part c of paragraph 127 under section **12. Achieving well-designed places** requires that *“Planning policies and decisions should ensure that developments:*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).”<sup>IV</sup>*

The underlined text bears significant importance for this application and there has been little or no discussion of this point when presented to the committee or within the planning officer’s recommendation report.

This statement of case has already made many points why this proposal merits additional consideration for approval. It is important that the standard of accommodation and the accessibility of the proposed dwelling are given adequate weight in determining a decision, as there is an insufficient supply of self-build

IV National Planning Policy Framework, Adopted 2018 (hereafter ‘NPPF’): pp. 38, Section 12 (Achieving well-designed places) paragraph 127, part c.



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housing district-wide.

Section 12 of the NPPF makes further comment on the importance of creating building and spaces that are inclusive for current and future users.<sup>V</sup>

*"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live.."<sup>VI</sup>*

Throughout this document the NPPF has been quoted with relevant content cited. The council's decision on this particular site appears at odds with so many comparable developments in the district where NPPF policies have been cited as justification for approval. Policy 12 of the NPPF goes on to urge Local Authorities that *"great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area..."<sup>VII</sup>* The proposed dwelling is of a superior design and level of sustainability, particularly when compared to the existing housing stock on offer.

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V NPPF: pp. 39, Section 12 (Achieving well-designed places) paragraph 127 part f.  
VI NPPF: pp. 38, Section 12 (Achieving well-designed places) paragraph 124.  
VII NPPF pp. 39, Policy 12 (Achieving well-designed places) paragraph 131.



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## Conclusion

### Closing Words

The applicant and 101010 have acted pro-actively, and in good faith throughout the design and planning process. Many revisions of the design and planning statements were produced before settling on the final proposal, taking time to thoroughly consider what was put forward. This has continued through the production of this statement, to ensure a balanced and considered argument is put forward for the inspector's final decision.

The applicant wanted to add, that there are many more examples of this type of development in and around Epping Forest than shown in this case, and the original application. Many pre-date online records or are difficult to locate due to the new property being listed under a different address for the original application. It is hoped that the Local Authority, and appointed Inspector, work together to understand the true extent of this type of development in the borough before determining this specific case.

### Planning Conditions

The appellants have gone further in this appeal, by offering items be added to the conditions to reassure neighbouring residents and the local authority. A summary of the conditions offered are as follows:

1. Protection of retained trees throughout development works.
2. Planting and maintenance of proposed landscaping for the first 5 years.
3. A drainage proposal to include SUDs (this could include an attenuation tank for rainwater under driveways) if desired.
4. Inclusion of an EV charging point to the host and proposed dwelling.
5. Provision for high-speed broadband.
6. Reinstatement of the footway to Brooklyn Avenue prior to first occupation.

The applicants will adhere to the recommended planning condition (SCN31 – retention of trees and shrubs) from the tree officer, to ensure the retained trees are adequately protected as part of the works. The original arboricultural report contains a method statement of how this can be achieved which the tree officer cites in their memo for grounds of NO OBJECTION:

***“We have NO OBJECTION to this application subject to the addition of the following conditions:-***

***SCN31 –retention of trees and shrubs***



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### Tree Protection

*Tree protection shall be implemented prior to the commencement of development activities (including demolition), and the methodology for development (including supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports and Tree protection shall be installed as shown on Arborterra Ltd drawing number 720-03 dated April 2021 unless the Local Planning Authority gives its prior written approval to any alterations.*

*Hard and soft landscaping shall be implemented as shown on Tententen 'proposed landscaping plan' drawing number 103; and the accompanying planting schedule. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. If any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.*

In conclusion, this statement of case has shown why planning permission should have been granted through; responding to the council's refusal reasons; demonstrating how the proposed dwelling surpasses local and national planning policies in terms of design and living standards; showing how this type of property can positively add to the local housing supply; and highlighting numerous local precedents for this form of development.