



Chartered Town Planners & Architectural Technicians

## **APPEAL UNDER SECTION 78 OF THE TOWN & COUNTRY PLANNING ACT 1990**

Appeal statement in respect of the refusal of planning permission for erection of a single storey rear extension and erection of a new detached dwelling, following demolition of existing garage.

**Appeal by:** Mr. Oleg Kovalenko.

**Property Address:** 11 Crossfields, Loughton, Essex, IG103PY.

**Local Authority:** Epping Forest District Council.

**LAP Ref:** EPF/0975/19.

**December 2021**

## **1.0 INTRODUCTION**

**1.1** This Appeal Statement is submitted on behalf of Mr. Oleg Kovalenko (the appellant) in respect of the refusal of planning permission by Epping Forest District Council for works consisting of the erection of a single storey rear extension and erection of a new detached dwelling, following demolition of existing garage at 11 Crossfields, Loughton, Essex, IG10 3PY. The appellant has retained the services of **4D Planning** to make this appeal. Please address all correspondence to **4D Planning** at the contact details set out on the appeal form.

**1.2** The application was submitted to the Council on the 02<sup>nd</sup> July 2019. The application was determined by Committee on the 03<sup>rd</sup> November 2021. The Committee decision was to go against the Planning Officer recommendation to approve subject to conditions including a legal agreement.

**1.3** The property is not within an area affected by any planning designations. Planning permission for the proposed development was refused for the following two summarised reasons:

**01** – Potential to adversely affect the integrity of the Epping Forest Special Area for Conservation.

**02** – Intensification and cramped nature of development would be harmful to the character and appearance of the locality, and on-street parking.

## **2.0 SITE DESCRIPTION AND SURROUNDINGS**

**2.1** The property in question is located on the west side of Crossfields. Crossfields is a residential street stretching over approx. 175m. There are residential dwellings surrounding the site.

**2.2** The property itself is a semi-detached property with a sizeable front curtilage and rear garden. It has a hipped roof and a small detached garage to the side. The property has not been previously extended.

**2.3** There is a good variety of dwellings styles/treatments along the entire length of Crossfields. This variety is evidenced both in differing building forms, materials, and through a variety of extensions and personalisation of dwellings. A significant number of dwellings have been extended in the past.

### **3.0 PROPOSED DEVELOPMENT**

**3.1** It is proposed to demolish the existing small detached garage and in its place erect a dwelling attached to No. 11. The proposed dwelling would be as follows:

<b>Floor area:</b>	86m <sup>2</sup> .
<b>Height:</b>	8.1m (to max ridge height at rear).
<b>Width:</b>	4.9m – 7m.
<b>Depth:</b>	8.2m.
<b>Car parking:</b>	3 shared spaces with No. 11 (e.g. 1 space for No. 11, & 2 for new dwelling)
<b>Garden area:</b>	128m <sup>2</sup> .

**3.2** A rear extension is proposed to No. 11 of 3.9m deep, 6.5m wide, and 3.9m high with a mono pitched roof. No. 11 would retain a garden area of approx. 91m<sup>2</sup>.

**3.3** The existing and proposed dwelling would each have their own space for refuse storage.

### **4.0 PLANNING HISTORY**

**4.1** There is pertinent planning history to the development in question as follows:

**2006 – EPF/0821/06:** Planning permission granted for part two storey side and rear extension. See figures 2-4 below.

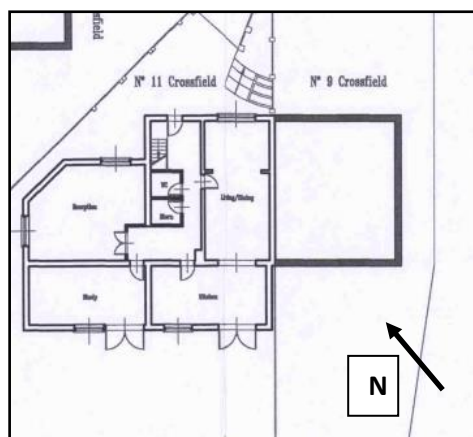


Figure 2 – Extract of approved site plan



Figure 3 – Extract of approved front elevation

Epping Forest District Council  
Planning Services,  
Civic Offices,  
323, High Street  
Epping, Essex  
CM16 4BZ

**Epping Forest District Council**

Application No: EPF/0821/06

**TOWN AND COUNTRY PLANNING ACT 1990**  
Town and Country Planning General Development Orders

**To:** C C Nebechi  
Leads Design Partnership  
41 Ordnance Road  
Enfield  
EN3 6UT

**Proposal:** Erection of a part single and part 2 storey side and rear extension

**Location:** 11 Crossfields, Loughton

In pursuance of the powers exercised by the Local Planning Authority this Council do hereby give notice of their decision to **GRANT PERMISSION** for the development described above, subject to compliance with the conditions listed below.

**Signed** *John De Wilton Preston*  
John De Wilton Preston, Head of Planning and Economic Development

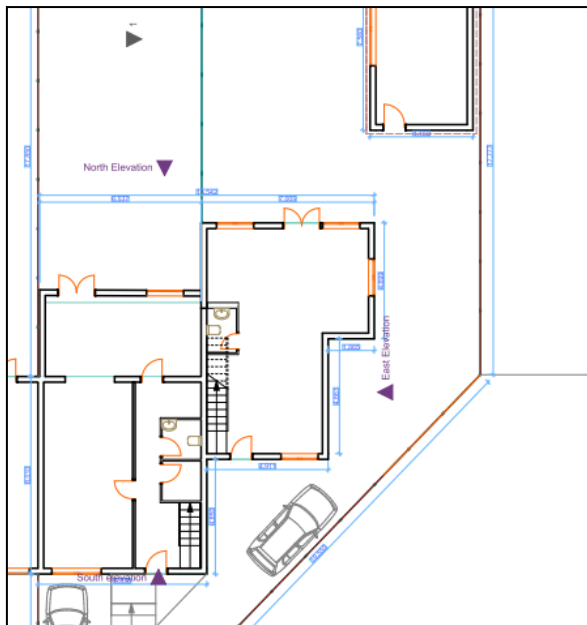
**Date:** 15 June 2006

**Conditions:**

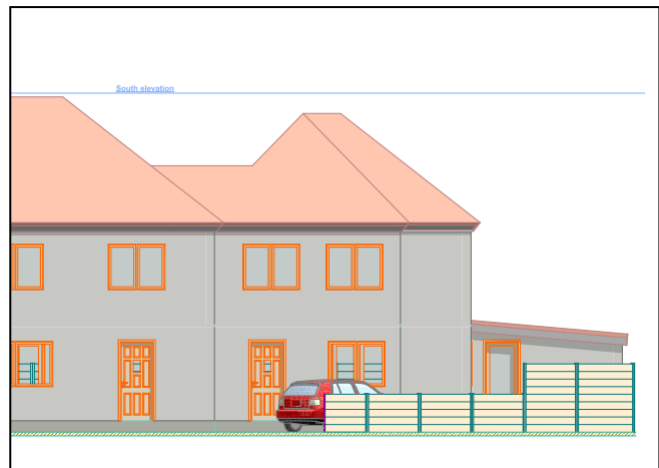
- The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.  
**Reason:** To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).
- Prior to first occupation of the building hereby approved the proposed window openings in the first floor flank wall shall be fitted with obscured glass and have fixed frames, and shall be permanently retained in that condition.  
**Reason:** To prevent the overlooking of neighbouring properties.
- Materials to be used for the external finishes of the proposed extension, shall match those of the existing building.  
**Reason:** To safeguard the visual amenities of the locality.
- Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or of any equivalent provisions of any Statutory Instrument revoking or re-enacting that

Figure 4 – Extract of decision notice granting permission.

**2016 – EPF/0552/16:** Planning permission refused for erection of two bedroom house to side of existing semi-detached house, erection of detached garage, conversion of existing house to two bedroom house with single storey rear extension – see Figures 5 and 6 below. Permission was refused for three reasons two of which are similar to those now under appeal.



*Figure 5 – Extract of refused site plan under EPF/0552/16*



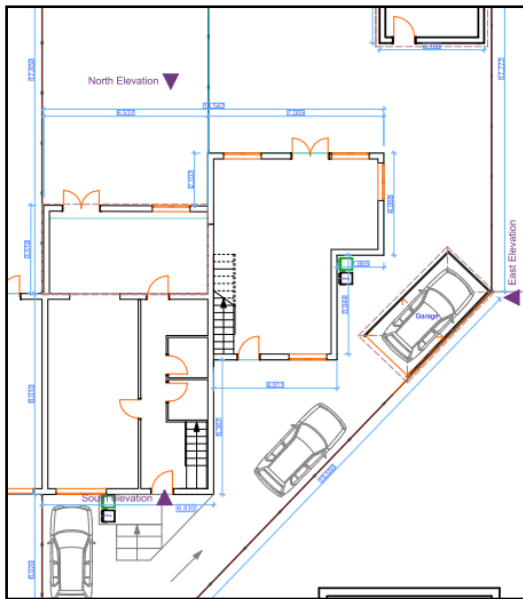
*Figure 6 – Extract of refused front elevation under EPF/0552/16*

**2017 – EPF/0790/17:** Planning permission refused for erection of dwelling house and detached garage, and conversion of existing house to two bedroom house with single storey rear extension – see Figures 7 and 8 below. By comparison to the scheme refused under EPF/0552/16, the proposal was amended by: allowing a car to pass beyond the front corner of the new house; setting the dwelling further back on the site, and subtle changes to design. It was recommended for approval by the Planning Officer however ultimately it was refused by Committee for three reasons similar to those now under appeal. Positive aspects of the scheme noted in the Planning Officer delegated report include:

*“Three parking spaces would be provided at the site as proposed. It is considered that the extent of shortfall from adopted standard would not be sufficient to adequately justify refusal of the application.”*

*“With regard to the impact to the character and appearance of the locality, this is a subjective matter and the amended positioning of the additional house at the site would make it less prominent from the highway. The design in itself of the proposed house would complement the existing house in broad terms with regard the creation of a built form in such a position. Evaluation to effect to character must be balanced against other matters including housing supply.”*

*“With regard to achieving sustainable development objectives, the subject of Policy CP1, the proposal would have no material negative impact whilst providing a relatively modest two-bedroomed house in a way that would avoid the use of greenfield land”.*



*Figure 7 – Extract of refused site plan under EPF/0790/17*



*Figure 8 – Extract of refused front elevation under EPF/0790/17*

**2018 - EPF/0162/18:** By comparison to the scheme refused under EPF/0790/17 the proposal was amended by amending the detail of the parking layout to overcome local highway authority concerns. This application is particularly pertinent to the assessment of the current appeal, as this was appealed to the Planning Inspectorate (Appeal Ref. No. APP/J1535/W/18/3208248) who ultimately dismissed the appeal. In dismissing the appeal however concern was cited only with regards to the special area of conservation issue and associated air quality issues – it is set out below (para. 6.1) that this issue has been addressed. The Inspector concluded favourably with respect to other issues of concern raised by the Council. We draw attention to the following extracts from the Inspector's Report:

### **Highways**

*“Nevertheless, the proposal would provide three parking spaces for the two modest dwellings, that are located close to services and facilities, such that I do not consider that there would be significant impacts from the development on the transport network”*

*“Tandem parking is not unusual in the surrounding area. In this instance the layout means that vehicles would be visible as they manoeuvre and there would be limited numbers given the access only serves two houses. Consequently, the proposed access and parking layout would not result in harm to highway safety”.*

*“However, as I have concluded that there would be no harm from the lack of compliance with those standards, I consider that the conflict with this policy would carry little weight in the planning process”*

## **Character and Appearance**

*“The proposed dwelling would be attached to the side of no. 11, the front elevation set back from that of the existing dwelling, with a further part set further back. The ridge of the roof would be lower than that of the existing dwelling. For these reasons, the proposed dwelling would be subservient to the existing”.*

*“The location of the dwelling would mean that it would restrict views between no. 11 and the neighbouring terrace. That would reduce the openness of this corner of the estate. Nevertheless, as the proposed dwelling would be set back from the front of the existing house, this would be limited and not materially affect the character and appearance of the area”.*

*“For these reasons, I conclude that the proposed dwelling would not harm the character and appearance of the surrounding area”*

**2018 - EPF/0975/19:** This is essentially a resubmission of planning application 2018 - EPF/0162/18 / appeal ref. APP/J1535/W/18/3208248. The issue of air quality and the Epping Forest Special Area for Conservation is no longer considered an insurmountable problem. *We attached in Appendix A the Planning Officer Report for the application and for which the recommendation was to approve subject to conditions including a legal agreement. This report is a fair and balanced assessment of the proposal in our opinion. The decision of the Committee to go against this recommendation and refuse permission is not grounded in sound / material planning grounds.*

**4.2** *It is apparent from the above planning history that the proposal was at one earlier stage considered acceptable by Planning Officials, and indeed considered acceptable by Planning Officials in this latest attempt. It is also apparent that the design and layout of the scheme has evolved and the applicant has shown a strong desire to respond to stated concerns of the Council. It is with regret that the applicant now finds himself in a position that he has to appeal again as he is of the opinion that all reasonable efforts have been made to address matters on the site. Of particular importance to the scheme under appeal is the fact that the Highway Authority do not object to the proposal. Furthermore the recent decision of the Planning Authority is wholly ignorant of much of the findings in appeal decision Appeal Ref. No. APP/J1535/W/18/3208248 and the appellant wishes to make an appeal for costs in this regard. The decision of the Area Planning Sub-Committee South to refuse planning permission (against officer recommendation) not grounded in sound / material planning grounds.*

## **5.0 PLANNING OFFICER REPORT & DECISION**

**5.1** The Report of the Planning Officer does not raise any concern with respect to the ‘principle’ of development.

**5.2** The Report also finds that there would be no material adverse impact to the residential amenity of neighbouring properties.

**5.3** With regards to public transport, the Report of the Highways Dept. acknowledges that:

*“The parking provision is considered acceptable given the accessible location and the access to other modes of sustainable travel. It is worth noting that the Inspector for the previous Appeal did not have any highway or parking concerns with the scheme.”*

**5.4** Despite the many positives in the Planning Officer Report (see Appendix A) it seems the Planning Committee, in deciding to refuse, is constrained by non-material planning concerns and is completely dismissive of the latest Planning Inspectorate appeal decision APP/J1535/W/18/3208248.

**5.5** The grounds of appeal are set out in section 6 below:

## **6.0 GROUNDS OF APPEAL / CONSIDERATION OF PLANNING ISSUES**

### **Refusal Reason 1**

**6.1** The first reason for refusal refers to Potential to adversely affect the integrity of the Epping Forest Special Area for Conservation. The decision mentions the absence of an appropriate legal agreement. The Extraordinary General Meeting of Full Council on the 8 February 2021 has now confirmed its decision to adopt the ‘Interim Air Pollution Mitigation Strategy’ (APMS December 2020). The Planning Authority are accepting legal agreements

to address this matter<sup>1</sup>. A legal Agreement was submitted to accompany the planning application and is again submitted to accompany the appeal (se Appendix B).

## **Refusal Reason 2**

**6.2** It is frustrating and disappointing to have to address this refusal reason in light of the findings of the Inspector in appeal decision APP/J1535/W/18/3208248.

**6.3** With regards to the stated relevant planning policy, it is unfathomable how the proposed scheme can be considered detrimental to the streetscene. There would be an immaterial change to the visual appearance of the site. At present one car is parked forward of the front elevation of No. 11, and following the proposed development this will remain the case as the other two spaces would be behind the building line and thus scarcely visible to passers by. In any case Crossfields whilst of pleasant appearance, is in all reality an unremarkable street and typical to streets the length and breadth of the country where cars are parked to the front and to the side of dwellings. The proposed parking arrangement ensures that parking on the site does not dominate the streetscene.

**6.4** It is further noted that this reason for refusal does not accord with the consultation response of the Highway Authority and thus it is considered the Planning Authority have erred in completely ignoring the advice of the highway safety experts.

**6.5** Cars from No. 11 and cars from the proposed new dwelling can come and go independent of the other dwelling. Whilst the two car parking spaces to the new dwelling are perpendicular to each other and may require some moving of a car to get another off the site, such an arrangement is found in abundance in urban areas and is a simple part of daily living involving arrangements between inhabitants. Due west of the site on Deepdene Road are prime examples of this whereby adjoining sites can accommodate two parked cars on site but one vehicle may have to move to allow another in/out – see figure 9 below:

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<sup>1</sup> <https://www.eppingforestdc.gov.uk/planning-and-building/planning-policy/efsac-protocol-for-releasing-planning-decisions/>



*Figure 9 – Dwellings on Deepdene Road due west of the appeal site*

**6.6** It is considered that this refusal reason wholly exaggerates the existing open aspect and alleged cramped nature of the proposal. Firstly with regards to concerns about intensification and cramped nature of development, it is emphasised that the proposed new dwelling would be perceived as being less than the width of No. 11 and it would have a ridge height almost 1.3m below No. 11. It would also be set back significantly from the front elevation of No. 11. These features ensure the proposed new dwelling remains subservient to No. 11 and that in terms of architectural legibility, the old and the new are clearly distinguishable. Furthermore, the dwelling set-back from the street would ensure that there are no long range views of the dwelling. It should also be noted that a two storey side extension was previously permitted for No. 11 under application Ref. No. EPF/0821/06. It is also submitted that a) the existing open aspect has minimal value in the streetscene as there are only buildings visible through it and little if any greenery, and b) due to the set-back of the proposal the open aspect would still be visible on approach from the south – see Figure 10 below.

**6.7** With regards to concerns about ‘already intense use of on-street parking’, the Planning Authority have not proffered any street specific evidence of this and instead rely on general comments and observations. Indeed our experience is that parking is cited as a concern by neighbours, town councils etc. in most planning applications of this nature

whether or not there is any substance to it. It cannot be ignored that the site is in a sustainable location approx. 10 minutes walk from Debden London Underground Station. Given the site's accessibility it is entirely plausible that the proposed dwellings' future occupants would not even own a vehicle or perhaps own just one vehicle or indeed a motorbike or bicycle.



*Figure 10 – Existing open aspect on approach from south would remain unaltered*

**6.8** We again draw attention to para. 4.1 above which quotes findings of the planning Inspector in appeal decision APP/J1535/W/18/3208248. Refusal reason 2 is simply not an issue.

## **7.0 CONCLUSION**

**7.1** In conclusion and having regard to the aforementioned issues as set out above in this Appeal Statement, it is submitted that Crossfields contains a variety of dwelling forms and styles such that a development of the nature proposed would readily be assimilated into the streetscene.

**7.2** The works proposed are a logical and practical way of utilising an over-sized side and rear garden and thus assisting in meeting the chronic housing needs of the borough. *The design of the proposed dwelling takes reference from the established design of No. 11 and is thus in keeping with the streetscene.*

**7.3** The proposed development is considered to be in compliance with NPPF policies, as well as the Epping Forest Local Plan.

**7.4** It is submitted that the appeal should be allowed.

**7.5** The decision of the Planning Authority completely ignores the findings of the Planning Inspectorate in APP/J1535/W/18/3208248. The issue of the integrity of the Epping Forest Special Area for Conservation is now addressed through the submission of a Legal Agreement.