



Appeal Decision

Site visit made on 11 March 2014

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 March 2014

Appeal Ref: APP/J1535/A/13/2205296

Loughton Baptist Church, High Road, Loughton, Essex IG10 4QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Rev Wayne Dulson against the decision of Epping Forest District Council.
- The application Ref EPF/1042/13, dated 23 May 2013, was refused by notice dated 7 August 2013.
- The development proposed is change of use of part of site from D1 to C3(a). Proposed two storey detached manse (Dwelling) and four car parking spaces to front of premises.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of part of the site from D1 to C3(a). Proposed two storey detached manse (Dwelling) and four car parking spaces to front of premises in accordance with the terms of the application EPF/1042/13, dated 23 May 2013, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: 13001_001, 13001_002 and 13001_003.
 3. No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 4. Prior to first occupation of the development hereby approved, the proposed first floor window opening in the north eastern flank elevation shall be fitted with obscure glass and shall be permanently retained as such.
 5. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. The hard landscape details shall include means of enclosure and hard surfacing materials. The soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment; schedules of plants, noting species, plant sizes and

proposed numbers/densities where appropriate; and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first occupation of the development or in accordance with the programme agreed with the local planning authority.

6. No development shall take place until a Tree Protection Plan, Arboricultural Method Statement and Site Monitoring Schedule in accordance with BS5837: 2012 (Trees in relation to design, demolition and construction – Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.

7. No development shall take place until additional details of levels have been submitted to and approved in writing by the Local Planning Authority showing cross sections and elevations of the levels of the site prior to development and the proposed level of the ground floor slab of the building, access ways and landscaped areas. The development shall be carried out in accordance with the approved details.

8. All construction/demolition works and ancillary operations, including vehicle movements on the site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08:00 to 18:30 Monday to Friday and 08:00 to 13:00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

9. No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during the construction works have been installed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site on commencement of development.

Main Issues

2. The main issues in this appeal are the effect of the appeal proposal upon:

- i) the character and appearance of the area; ii) the living conditions of occupants of neighbouring residential properties, with specific reference to outlook; and iii) the living conditions of future occupants of the proposed dwelling with regard to private garden provision.

Reasons

Character and Appearance

3. The appeal site is situated within the northern corner of the church grounds, it is set well back from High Road, partly behind the large church building which has mature trees situated along the north eastern boundary to its frontage. The proposed dwelling, designed in an unimposing architectural style, would have an almost square plan form and a pyramidal hipped roof. It would be situated close to the rear garden boundaries of 12 and 14 Ollards Grove to the north

east, and would be on lower ground than these neighbouring properties by a minimum of approximately 1.2 metres.

4. Views of the appeal site from the public realm are limited to casual glimpses from High Road and down from the cul-de-sac of Park Hill which is on much higher ground. As demonstrated within the sectional elevations submitted with the proposals, the new dwelling would make use of the existing contours of the surrounding land, so that it would not render it an imposing feature within the street scene or the wider area. I consider that the resultant height and bulk of the proposed dwelling, being quite modest in form, would not result in poor design, with the proposed roof form minimising its overall bulk.
5. Consequently, I consider that the proposal would not have a detrimental impact upon the character and appearance of the area. It complies with Epping Forest District Local Plan (adopted January 1998) (LP) Policy DBE1 which requires new buildings to respect their setting in terms of scale, proportion, siting, massing, height, orientation, roofline and detailing. The proposals also comply with Policy CP2 of the Epping Forest District Local Plan Alterations (adopted July 2006) (LPA) which seeks to safeguard and enhance the setting, character and townscape of the urban environment. In addition, and leading on to the next issue, I find that the proposal complies with one of the core planning principles of the National Planning Policy Framework (the 'Framework') which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Living Conditions – Occupants of Neighbouring Residential Properties

7. The Council's view is that the proposed development would have an adverse impact on the visual amenities and outlook of 12 Ollards Grove (not no.2 as cited in the decision notice), in addition to 14 and 16 Ollards Grove. I have concluded above that the proposed development would not have a detrimental impact upon the character and appearance of the area and consequently I find that the visual amenities currently enjoyed by the occupants of these neighbouring properties would not be materially harmed either.
8. In terms of outlook, I note that the proposed dwelling would be in relative close proximity to the boundary that is shared with no.s 12 and 14, with the latter property being most affected by the proposals. I have not been provided with evidence as to the extent of public consultation to which the Essex Design Guide has been subjected to, or as to whether it has been formally adopted by the Council, therefore I can only give it limited weight. However, I note that as a guide, and with regard to the separation between dwellings it states that where the backs of houses are at more than 30° to one another, a separation of 15m from the nearest corner can be acceptable. I have not been provided with the precise distance between the rear elevations of no.s 12, 14 and 16 to the flank elevation of the proposed dwelling, but the Council's committee report states that the rear gardens of these neighbouring properties are in excess of 22m.
9. Having regard to the lower site levels of the proposed dwelling in comparison to these neighbouring properties, the first floor of the proposed dwelling would be approximately level with the ground floor of 14 Ollards Grove. Furthermore, notwithstanding the depth of the proposed dwelling and the fact that the new

dwelling would be visible above the existing rear boundary fences, I consider that it would not be an unduly prominent feature within the rear garden scene. I therefore conclude, on balance, that the proposals would not have a material detrimental impact upon the outlook enjoyed by their occupants of the Ollards Grove properties. Taking into account that there is no right to a view within planning legislation, I find the proposal complies with LP Policy DBE2 which states that planning permission will not be granted for new buildings which have a detrimental effect upon existing neighbouring or surrounding properties in either amenity or functional terms.

10. In conclusion on this matter, I find that the proposed development would not have an adverse impact on the visual amenities and outlook of 12, 14 and 16 Ollards Grove.

Living Conditions – Future Occupants

11. There has been some confusion between the main parties as to the amount of private rear garden to be provided for the new dwelling. I note that LP Policy DBE8 states that new residential developments will be expected to provide private amenity space which will usually be at the rear of dwellings and, amongst other things, be of a size, shape and nature which enables reasonable use. The supporting text to this policy in LP paragraph 15.52 states that the sizes of private gardens are for the most part matters for the marketing judgement of developers, but that the District Council will expect rear gardens of new dwellings to have a minimum area of 20sqm for each habitable room.
12. In this case the Council states that to fully comply with this policy the proposal should have a minimum private amenity space of 140sqm. It appears from the subsequent correspondence between the main parties that the submitted proposed site plan from with the Council took its measurements, should have been scaled at 1:200 as opposed to 1:100. Consequently the garden would be at least double the 60sqm cited within the Council's statement.
13. Taking into account the fact that the 20sqm per habitable room (for all rooms where the floor area exceeds 13sqm) the appellant states that they would be providing a minimum of 128sqm of amenity space against the requirement of 120sqm, as they had discounted both the study and dining room as they are under 13sqm. Whilst the Council has not provided a direct response to these calculations, I am of the view that pursuant to the third criterion of LP Policy DBE8 that the proposed development would provide private amenity space which is of a size, shape and nature that would enable reasonable use. The proposal would therefore provide adequate private rear garden provision in compliance with this policy.

Other Matters

14. I note the concerns of local residents that mature trees that are situated behind the rear boundaries of nos 12 and 14 will need to be removed as a result of the proposal. However, I note that these are not protected by a Tree Preservation Order and that the Council's Tree and Landscape Officer raise no objection to the proposal. Furthermore, whilst I acknowledge that the removal of any trees may render the rear gardens of the Ollards Grove properties as more exposed, by virtue of the building-to-building distances, not only between these properties and the proposed dwelling, but also those houses situated

within Park Hill, I consider that the proposal would respect its built context. As the site provides adequate private garden space, I am of the view that it would not result in overdevelopment of the site and further does not amount to 'garden grabbing'. Each case must be assessed on its own merits, granting planning permission in this instance does not set a precedent for other proposals in the future. In addition, by virtue of the siting of the proposed dwelling at 90° to its immediate neighbours, any views over their rear gardens would be oblique. However, as set out within the list of conditions above, it is necessary to ensure that the first floor window facing towards the rear garden of no. 14 is obscurely glazed.

15. I also note the concerns with regard to parking provision on the site, however, the Local Highway Authority (LHA) has not raised an objection to the proposal. The LHA state that the parking for the proposed house meets the Essex Parking Standards and that the proposed relocation of the four Church parking spaces within the site, is considered acceptable. I have no reason to disagree with this view. I acknowledge the comments made with regard to other options to accommodate the Church Minister, however, I can only determine the appeal before me on its own merits. Furthermore, what may or may not happen to the dwelling in the future is not a determining factor in this appeal, particularly as on its merits, I have found a new dwelling in the location proposed to be acceptable.
16. Issues raised with regard to the removal of earth from the site and the altering of levels are matters that can be controlled by way of planning condition, and further I have not been provided with any evidence that the site provides a habitat for any endangered wildlife species. Finally, I understand the concern of local residents that there could be unmarked graves within the extent of the appeal site, however, no conclusive evidence proving such existence has been provided and it is not a determining matter in the appeal.

Conclusion and Conditions

17. For the above reasons and having regard to all other matters raised I conclude that the appeal should succeed.
18. In addition to suggesting a condition that the development be completed strictly in accordance with the approved plans, the Council also suggest conditions requiring details of external finishes to the building, hard and soft landscape works, tree protection measures and details of site levels to be submitted. In the interests of the character and appearance of the area, I consider that conditions covering these areas to be necessary. Details of levels is also important to protect the living conditions of the occupants of neighbouring residential properties, along with a condition that requires the first floor window opening in the north east flank of the proposed dwelling to be obscurely glazed. The Council also suggest conditions controlling the hours within which construction works take place, in addition to ensuring wheel washing facilities for construction vehicles are provided. In the interests of protecting the living conditions of neighbouring residents and highway safety, I also consider these conditions to be necessary.
19. The Council has suggested that all material excavated from the below ground works be removed from the site in order to control any alteration to levels or

spreading material not indicated in the approved plans. However, I do not consider this necessary as the condition controlling finished ground and floor levels will ensure a satisfactory outcome for all interests of acknowledged importance. Finally, the Council suggest that the occupation of the dwelling should be limited to a Minister solely working in connection with the Baptist Church, as specific circumstances of the site make the dwelling unsuitable for a person not employed by the adjacent Church. I have not been made aware from the Council's representations of the necessity for this and taking into account my findings above, which centre upon the principle of a new dwelling in the location proposed, I do not consider such a condition to be reasonable.

C J Tivey

INSPECTOR



Costs Decision

Site visit made on 11 March 2014

by **Mr C J Tivey BSc (Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 March 2014

Costs Application in Relation to Appeal Ref: APP/J1535/A/13/2205296 Loughton Baptist Church, High Road, Loughton, Essex IG10 4QU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The appeal is made by Rev Wayne Dulson for a full award of costs against Epping Forest District Council.
 - The appeal was made against the refusal of planning permission for change of use of part of site from D1 to C3(a). Proposed two storey detached manse (Dwelling) and four car parking spaces to front of premises.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Since the application for costs was made, Circular 03/2009 has been deleted by the launch of the Planning Practice Guidance (PPG). The PPG states that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary and wasted expense in the appeal process, they may be subject to an award of costs.
3. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include: Preventing or delaying developments which should clearly be permitted, having regard to its accordance with the Development Plan, National Policy and any other material considerations; failing to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. With regard to the first reason for refusal, whilst the applicant states that the proposal complies with the Essex Design Guide, as I set out within my appeal decision, it has not been demonstrated as to what form of public consultation process this has been subjected to, or its status as a Supplementary Planning Document or otherwise. Taking into account the fact that I could only give it limited weight, and that it does not form part of the Development Plan, it is just one of a number of material considerations to be taken into account within the determination process. Within their statement, the Council has evidenced why,

in its opinion, the proposal was unacceptable with regard to the impact that it would have upon the living conditions of the occupants of adjacent residential properties, and had regard to the Development Plan and other material considerations.

5. Concerning the second reason for refusal it appears that the confusion surrounding the amount of private garden space to be provided for the proposed dwelling was the result of an incorrect scale annotated on the submitted site plan. The applicant, in their appeal statement themselves, did not question the Council's assessment of garden area, it was only the result of subsequent correspondence between the applicant and the Council that the discrepancy between actual proposed provision and that interpreted by the Council came to light. However, the Council did produce evidence to substantiate this reason for refusal based upon the information that was before it.
6. With regard to the final reason for refusal, I am of the view that it does not repeat the first reason for refusal, as it deals with matters of character and appearance as opposed to living conditions. The impact of a proposal upon the character and appearance of an area does not have to be limited to views of the site from public vantage points, and whilst the Council's response in its statement is rather generalised, I cannot state that it is unsupported by **any** (my emphasis) objective analysis.
7. Therefore, notwithstanding my findings, in allowing the appeal, I conclude that the Council has not behaved unreasonably; and consequently has not directly caused the applicant to incur unnecessary or wasted expense in the appeal process.

C J Tivey

INSPECTOR

Appeal Decision

Site visit made on 11 March 2014

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 March 2014

Appeal Ref: APP/J1535/D/14/2213251
2 Chigwell Park, Chigwell, Essex IG7 5BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sivanesan Subramanaim against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/2225/13, dated 22 October 2013, was refused by notice dated 8 January 2014.
 - The development proposed is for a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 2 Chigwell Park, Chigwell, Essex IG7 5BE in accordance with the terms of the application Ref PL/EPF/2225/13, dated 22 October 2013, subject to the following conditions:
 1. The development hereby permitted shall begin not later than three year years from the date of this decision.
 2. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 3. The development hereby permitted shall be carried out in accordance with the following approved plans: chi/plan/13_1 and chi/plan/13_2.

Main Issue

2. The main issue in this case is the effect of the proposal on the living conditions of the occupants of neighbouring residential properties, with specific reference to outlook.

Reasons

3. The appeal property comprises a detached, two storey house set close to the junction of Chigwell Park with High Road. The front elevation of no.2 is broadly in line with that of 4 Chigwell Park adjacent and to the north west, but with a quite significant two storey projection beyond its rear elevation. It is agreed between both main parties that the main rear wall of no.2 is 4.5m beyond the rear of elevation of no.4. Ground levels also fall gently in a north westerly

direction, from 197 High Road to the south east towards no.4. However, the boundary treatments to both sides of the rear garden of the appeal site comprise relatively high close boarded fencing, with sporadic trees and shrubs situated along them. The south eastern boundary fence shared with no. 197 also has timber trellis panels over it and a number of mature conifer trees are situated within the grounds of this neighbouring property.

4. Notwithstanding the projection of the rear elevation of the appeal building beyond the rear elevation of no.4, I find that by virtue of the flat roofed single storey nature of the proposed extension, its scale and mass would be limited. Whilst undoubtedly the top of the roof would be viewed over the fence, by virtue of the width of the rear garden of no.4, I consider that this would not have an excessively overbearing effect upon the occupants of this property, and consequently would not have a material impact upon its outlook.
5. With regard to the impact of the proposal upon no.197, whilst that dwelling is orientated approximately at a right angle to the appeal property, and its garden depth is relatively shallow, by virtue of the fact that it is situated on higher ground, whilst taking into account the existing boundary treatments, I consider that the proposals would not be overbearing or be materially detrimental to the outlook from this property either.
6. With regard to other matters raised, I note that reference has been made to a refused scheme at 10 Chigwell Park, however, I have not been provided with details of that proposal and in any case each proposal must be assessed on its own merits. References have also been made to the proposal not respecting a 45° rule, but whilst I am aware that a notional 'rule of thumb' test is often applied by local planning authorities, I have not been provided with a policy basis for such a test in this instance. By virtue of the single storey form of the extension, with a predominantly flat roof the impact upon sunlight and any resultant overshadowing would not be significant, particularly bearing in mind the orientation of the appeal property and its proposed extension in relation to its immediate neighbours. I acknowledge other concerns with regard to the potential for light pollution from the roof lanterns and a loss of mutual privacy through them, however, any potential light pollution would unlikely give rise to a significant impact upon the night sky, and by its very nature would not give rise to material overlooking; bearing their position above ceiling level.
7. I therefore find that the proposal would not give rise to material harm to the living conditions of the occupants of neighbouring residential properties, with their current levels of outlook being protected. The proposals comply with Policy DBE9 of the Epping Forest District Local Plan adopted January 1998 which requires that an extension does not result in an excessive loss of amenity for neighbouring properties. I also find that the proposal complies with one of the core planning principles of the National Planning Policy Framework which is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Conclusion and Conditions

8. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should succeed. The Council has suggested a condition requiring the external materials to be used in the construction of the

extension to match those of the existing building and for the avoidance of doubt and in the interests of proper planning, I impose a condition requiring the development is carried out in accordance with the approved plans.

C J Tivey

INSPECTOR

Appeal Decision

Site visit made on 18 October 2013

by Terry G Phillimore MA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 November 2013

Appeal Ref: APP/J1535/A/13/2192628
261 High Street, Epping CM16 4BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Di Piazza against the decision of Epping Forest District Council.
 - The application Ref EPF/1924/12, dated 28 August 2012, was refused by notice dated 23 January 2013.
 - The development proposed is conversion of office space (disused) into 3 self contained flats and alterations to existing bedsits into a single self contained flat.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of office space (disused) into 3 self contained flats and alterations to existing bedsits into a single self contained flat at 261 High Street, Epping CM16 4BP in accordance with the terms of the application, Ref EPF/1924/12, dated 28 August 2012, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 08003.SP, 08003.002 Rev:P1, 08003.003 Rev:P1, 08003.004 Rev:P1.

Main Issue

2. The main issue is the effect the proposal would have on highway conditions in the vicinity.

Reasons

3. The proposal relates to first floor accommodation which currently comprises 3 bedsits and vacant offices. The Council raises no objection to the principle of conversion to all residential use, with evidence submitted to show a lack of demand for the office space.
4. Policy ST6 of the Epping Forest District Local Plan 2006 expects all development proposals to provide of-site parking in accordance with its standards. The current relevant standards are set out in the Essex County Council Parking Standards Design and Good Practice 2009.

5. No off-street parking is associated with the proposal. According to the appellant's undisputed calculations, under the standards there would be a requirement for 5 spaces for the existing uses and 6 for the proposal. The parking standards document identifies that the standards can be reduced in town centre locations with good access to public transport.
6. The site is located within Epping Town centre. This is agreed to be a sustainable location with ready access to facilities. Notwithstanding that the existing uses are long-established, the parking demand generated by the proposal is unlikely to be significantly greater than that resulting from these uses. In this context the application of a relaxation from the normal standards would favour allowing the proposal, and there is no material conflict with the development plan in this respect.
7. In addition, the proposal would be a sustainable development which warrants support according to the National Planning Policy Framework. This advises that development should only be refused on transport grounds where the residual cumulative impacts are severe. There is no evidence to suggest that there would be such an impact in this case.
8. The Council refers to another appeal decision (ref APP/J1535/A/11/2160122) in support of the refusal, but that related to a proposal largely involving new build accommodation in a different town centre (Waltham Abbey), and therefore differed materially from the current scheme.
9. Listed building consent has been granted by the Council for the proposed works (ref EPF/1938/12) and the conversion would preserve the character and appearance of the Epping Conservation Area.
10. A condition specifying the approved plans is needed for the avoidance of doubt and in the interests of proper planning. The appellant suggests that provision for cycle parking within the site could be made. While this would be welcome, in the circumstances it is not necessary for the proposal to be acceptable, and therefore a planning condition requiring such provision is not warranted.
11. For the reasons given above I conclude that the appeal should be allowed.

T G Phillimore

INSPECTOR