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## Appeal Decision

Hearing held on 2 July 2014

Site visit made on 2 July 2014

**by G J Rollings BA(Hons) MA(UD) MRTPI**

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

**Decision date: 14 August 2014**

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**Appeal Ref: APP/J1535/A/14/2217549**  
**48 Church Lane, Loughton, Essex, IG10 1PD**

- 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 Banner Homes against the decision of Epping Forest District Council.
  - The application Ref EPF/2664/13, dated 13 December 2013, was refused by notice dated 2 April 2014.
  - The development proposed is redevelopment of the site to create four detached dwellings, formation of vehicular access and car parking.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposed development on the character and appearance of the area; and
  - The effect of the proposed development on the living conditions of nearby occupiers, with particular reference to visual impact and outlook.

### Reasons

#### *Character and appearance*

3. The appeal site accommodates a detached house located towards the front of the site, with a semicircular driveway in the front garden, and an expansive, landscaped rear garden. Other houses within this part of Church Lane are similarly large and sited close to the road, with front boundaries generally defined by either walls and fences, or well-established landscaping. Combined with the relatively narrow width of this part of the street, the street's character is reminiscent of an outer suburban or village lane.
4. The character of Church Lane changes just to the south of the appeal site, where it intersects with Wellfields. Here, the road becomes wider and both this street and Wellfields, as well as their intersecting roads, display more modern characteristics in terms of housing types and siting. Some newer infill development has occurred adjacent to this part of Church Lane, creating new cul-de-sacs at Clerks Piece and Elmores. There has also been some subdivision

- of plots, creating new homes with a direct street frontage, such as those at 1a and 1b Wellfields.
5. The proposed development would replace the existing house on the appeal site with four new houses. Two would face the street, with a staggered front building line that would appropriately respond to neighbouring properties. These would be separated by a private driveway which would lead from the street towards the rear of the site, where a further two dwellings would be located. Each plot would have its own area of garden space, as well as dedicated garaged and open car parking.
  6. The layout of the homes would be distinctive within the area. The increase in the number of homes on the site invites comparisons with the southern part of Church Lane, with its denser character and more suburban appearance. However, despite the proximity of the southern part of Church Lane to the appeal site, there is a clear and stark shift in character at the intersection, and into the northern part of the Church Lane. The proposed layout would be unlike that of the aforementioned cul-de-sac developments, which are akin to traditional street layouts, with homes arranged in a traditional street-facing format. The appeal proposal would create a cluster of homes with a private driveway and the two rear homes would have characteristics of backland development. This would be demonstrated within the views through the property towards additional built form, which although would only be visible as glimpsed views, would reinforce the denser nature of the site when compared with its neighbours. Given the absence of this form of development within this section of Church Lane, the proposed development would be out of character with its surroundings.
  7. The landscaped character of the site is also apparent when viewed from neighbouring properties, across rear gardens. The retention of much of the border planting is welcomed but the proximity of the new homes at the rear of the site would introduce new and obvious built form within these private views, and would thereby be harmful to the otherwise established garden appearance of the site, and its sylvan character. I note the appellant's comments regarding the potential revision of the Tree Preservation Order (TPO) on the site and the condition of some of the trees to be removed. Nonetheless, whilst replacement landscaping would assist in preserving this character, it would take many years to mature, with resultant harm in the meantime.
  8. I note that the scheme would provide some limited benefits in terms of its character and appearance, particularly with regard to the restoration of driveway entrances and the retention of much of the landscaping. Similarly to the considerations within the previous paragraph, the verdant character of the street boundary would be compromised by the combination of landscape replacement and the scale of the built form behind. This would harm the appearance of the street scene, with replacement landscaping likely to take some time to mitigate this impact.
  9. I have taken into account the Council's acceptance of the principle of development of the land. A previous appeal decision for development on this site allowed outline permission for the demolition of the property and its replacement with new homes, including an aged persons' complex. This decision dates from 1989. While the character of the area does not appear to have substantially changed since then, the statutory framework within which my decision is taken has been updated. Primarily, the *National Planning Policy Framework* (the

Framework) gives significant importance to the importance of good design and ensuring that new development has regard to local distinctiveness and character. In particular, the Framework provides clear guidance with regard to setting out policies resisting inappropriate development to local gardens (paragraph 53), and in the reinforcement of local distinctiveness (paragraph 60). Although the Council's Local Plan (1998/2006) Policies predate the Framework, they are generally consistent with its aims, and have also been updated, including with regard to ensuring that development is relevant to its context. Given that the character of the development would be at odds with the prevailing context, I do not consider this proposal to be acceptable.

10. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would conflict with Local Plan Policies CP2, which requires new development to safeguard the urban environment's setting, character and townscape, and DBE1, which requires that new buildings respect their settings in terms of their design features, amongst other factors. It would also conflict with CP7, which has similar aims, and advocates the use of higher densities only where the character of the area would be compatible. I have also taken into account the relevant sections of the Framework, as set out above.

#### *Living conditions*

11. The two proposed rear dwellings would be visible from surrounding properties, despite the areas of retained vegetation. The subject of the Council's greatest concern would be the impact of the proposed dwellings in views from 1a and 1b Wellfields. The proposed dwelling on plot 3 would be that which would have the most impact on these properties. I had the benefit of viewing the appeal site from the rear gardens and rooms of both of these neighbouring properties.
12. The proposed plot 3 dwelling would be visible from 1b Wellfields, although its position would be offset and it would be diagonally visible from the property. Although there would be a negative impact with regards to local character, as set out in the previous section, there would not be a significant restriction of views out of the property, nor would the proposal result in any sense of enclosure around the garden. As such, I do not consider that there would be resultant harm on visual impact from No. 1b.
13. The plot 3 dwelling would be constructed directly behind 1a Wellfields. The first floor of the dwelling would be set back from the opposing property boundary, but would be clearly visible in direct rearward views from both the dwelling and garden of No. 1a. Despite the retention of an existing large tree, and the aforementioned setback, the occupants of No. 1a would face the side wall of the dwelling, with a resultant enclosing effect beyond the garden's rear boundary. This would be exacerbated by the lack of openings within the dwelling, which although necessary to prevent overlooking, would present a wall with a bulky appearance at first floor level. The development would therefore have a harmful visual impact and be detrimental to the outlook of the occupiers of No. 1a.
14. I have also taken into account neighbours' comments regarding the likelihood of the development to result in additional harm to living conditions, with regard to overlooking and loss of privacy, loss of light, and additional noise and disturbance. In relation to the latter, I have no evidence that this would occur, and although it is likely that there would be some increase in noise and disturbance, nearby houses are already in close proximity to others, where

similar levels of noise and disturbance would be likely to occur. It is therefore unlikely that any increase would result in significant additional harm to living conditions.

15. There would be no first floor side windows in the dwellings which would abut the property's external boundaries. Whilst there could be overlooking of adjoining properties from other upper floor windows, the distances between windows of opposing dwellings would be significant, and views would fall into areas already overlooked by neighbouring properties. Loss of light would also be unlikely to be significant as a result of the separation distance between buildings, and the orientation of new development with regard to the path of the sun. As such, I do not consider that the proposal would result in any new overlooking or loss of light that would be significantly detrimental to living conditions.
16. Nonetheless, the impact that the proposal would have on the living conditions of neighbours, with regard to visual impact, is sufficient for me to reach a decision on this issue. I therefore conclude that the proposed development would have a harmful impact on the living conditions of the occupiers of 1a Wellfields, with particular reference to visual impact and outlook. The proposal would conflict with Policies CP7 and DBE2 of the Local Plan, which seek to protect the amenity of neighbours, and the Framework's core planning principle (paragraph 17) of seeking a good standard of amenity for occupants of buildings.

#### *Other issues*

17. Matters of housing land supply were discussed at the Hearing. The Council cannot identify an up-to-date five-year supply of deliverable housing land. I have taken into account the advice set out in paragraph 49 of the Framework, with regards to housing supply. This paragraph also sets out that housing proposals should be considered in the context of the presumption in favour of sustainable development. Keeping in mind the proposal's impact on local character and appearance and living conditions, it would not represent sustainable development, given the conflicts with adopted local policies, and that its benefits do not outweigh its adverse impacts<sup>1</sup>.
18. Representations were made to the effect that a neighbour's rights under Article 8, and Article 1 of the First Protocol of the European Convention on Human Rights would be violated if the appeal were allowed. As I have decided to dismiss the appeal, I do not need to deal with the question of whether the decision would result in a violation of these rights.
19. I have taken into account the other issues raised by interested parties, which include but are not limited to ecology, and highway safety. These are also important issues, but in this case, my decision on the basis of the main issues, as set out above, is sufficient for me to dismiss the appeal.

#### **Conclusion**

20. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*G J Rollings*

INSPECTOR

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<sup>1</sup> With reference to paragraph 14 of the Framework.

## **APPEARANCES**

### FOR THE APPELLANT:

Neil Cottrell	Planning Manager, Banner Homes
Jamie Braha	Land Manager, Cottrell Homes
Duncan Abbot	Site owner
Mark Welby	ACD Arboriculture
Philip Wright	Banner Homes

### FOR THE LOCAL PLANNING AUTHORITY (EFDC):

Jenny Cordell BSc MSc	Senior planner, EFDC
Jill Shingler BA(Hons) MRTPI	Principal planner, EFDC
Clr Chris Pond	Councillor, EFDC, Loughton Town Council, Essex County Council.

### FOR MR HOWARD KAUFFMAN:

Howard Kauffman	Local resident
David Reid	Montagu Evans
Mark Challis	BDB Law
Sharon Hosegood	DF Clark Bionomique Ltd
Joe Ellis	WSP Transport

### INTERESTED PARTIES:

Chris Bond, Mrs Angold-Stevens	Loughton Town Council
Rose Kauffman, Leslie Collischon, David Collischon, Emma Murray, Caroline Loureda, Luis Loureda	Local residents

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Letter from Cityscape
- 2 Transport conditions
- 3 Copies of Land Registry certificates
- 4 Marked copy of Council's committee report, highlighting Essex Design Guide Issues
- 5 Essex design Guide Extracts
- 6 Copy of the Council's application validation checklist
- 7 Book: Loughton and its Trees