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## Appeal Decision

Site visit made on 30 March 2015

**by Claire Victory BA (Hons) BPI MRTPI**

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

**Decision date: 23 April 2015**

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**Appeal Ref: APP/J1535/W/14/3000961**

**Church Hill Car Park, Church Hill, Loughton, Essex IG10 1QR**

- 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 Constable Homes Ltd against the decision of Epping Forest District Council.
  - The application Ref EPF/1412/14, dated 13 June 2014, was refused by notice dated 3 September 2014.
  - The development proposed is the redevelopment of a disused car park to provide 330 sqm of A1 retail space with six C3 residential apartments above with car parking and associated landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of a disused car park to provide 330 sqm of A1 retail space with six C3 residential apartments above with car parking and associated landscaping at Church Hill Car Park, Church Hill, Loughton, Essex IG10 1QR in accordance with the terms of the application, Ref EPF/1412/14, dated 13 June 2014, subject to the conditions in the following schedule.

### Application for costs

2. An application for costs was made by Constable Homes Ltd against Epping Forest District Council. This application is the subject of a separate Decision.
3. A number of additional swept path plans have been submitted with the appeal. These show that a car can turn when the store delivery vehicle is present (drawing ref. ST-2341-15 D); a resident's car can pass a removal vehicle along the side access (drawing ref. ST-2341-18-A); and that the filling station forecourt can be closed for refilling without interfering with the application site (drawing ref. ST-2341-19 A). Whilst these plans were not subject to public consultation, they would not result in any material amendment to the scheme and provide further detail of the car parking and servicing arrangements within the site. On that basis I do not consider that anyone would be prejudiced by my assessment of the proposal with reference to these drawings.

### Main Issues

4. The main issues in the appeal are:
  - The effect of the development on highway safety; and

- The effect of the development on the character and appearance of the surrounding area.

## Reasons

### *Highway Safety*

5. The appeal site is a former car park, located between the Plume of Feathers public house to the north east, and an Esso petrol filling station to the south west, and with residential properties to the rear, on Marjorams Avenue. This section of Church Hill is outside a designated town centre but contains a mix of residential, commercial and community uses.
6. Policy ST6 of the Epping Forest District Council Local Plan and Alterations (LP)(2008) was referred to on the Decision Notice. This requires that development proposals provide on-site parking in accordance with the adopted 2001 standards or its successor documents. LP Policy DBE6 (i) requires that convenient parking is provided for new residential development.
7. The scheme would provide 7 car parking spaces for six flats, and 9 spaces for customer parking for the retail use. The Council is concerned that the layout of the parking and servicing area to the front of the proposed retail store would fail to make adequate off-street car parking provision or sufficient manoeuvring space for delivery vehicles. The parking standards used in the Council's assessment are not specified in the Officer report or the Council's appeal representations, but the Highway Authority (HA) has made reference to the Essex County Council Vehicle Parking Standards (2001), which include maximum standards for car parking. The HA has stated that the proposed number of spaces for both the flats and the retail use would be acceptable given the accessibility of the site, and the site layout would be acceptable subject to certain conditions relating to the management of parking and servicing. The Council has also conceded that the access, parking and turning arrangements within the appeal site are technically acceptable, including the numerical provision of parking spaces.
8. A car park management plan has been submitted, which would restrict car park waiting times to 30 minutes, to maximise the use of the customer spaces. No parking is designated for staff, but the site lies approximately 300m from Loughton Town Centre, where there are several public car parks, and there are bus stops close to the site providing services to Loughton and Debden. Prospective staff members would also be aware of the car parking restrictions in place at the store.
9. The proposed access and egress for residents and customers would be via a shared vehicular access with the Esso Garage. The Stage 1 Safety Audit submitted with the planning application identified potential conflict between vehicles accessing the appeal site, and vehicles entering the garage. However, the submitted Delivery and Servicing Plan identifies a separate in-only access for deliveries by Heavy Goods Vehicles (HGV), adjacent to the public house. A slight alteration to the existing footway in this location would be required to widen the access to accommodate the swept path in order to accommodate delivery vehicles up to a maximum length of 11.2m. The Plan indicates that there would be approximately 7 deliveries to the site each day. The proposed servicing arrangement would reduce the potential for conflict with vehicles using the access shared with the Esso garage as it would only be used for the

egress of delivery vehicles. The implementation of these delivery arrangements can be secured by condition, in the interests of highway safety.

10. Although the shared access would be used for vehicles entering the garage as well as leaving the appeal site, it is sufficiently wide with good visibility in both directions along a straight road at that point. The HA is satisfied that subject to appropriate conditions, the development would not be detrimental to highway safety, capacity or efficiency at this location or on the wider highway network.
11. For these reasons I conclude that the development would not cause material harm in respect of highway safety, and would accord with LP Policies ST6 and DBE6(i). The Council has also referred to paragraph 40 of the National Planning Policy Framework (the Framework) on the Decision Notice, but this relates to parking within town centres and is therefore not relevant to the appeal proposal.

#### *Character and appearance*

12. The development would be formed of three storeys. Whilst most properties in the locality are two storeys in height, there are some prominent examples of three storey buildings, including apartment blocks beyond the Plume and Feathers, a modern three storey office block on the corner of Rectory Lane and Church Lane, and three storey townhouses on Church Close. Consequently the height of the proposed building would not be out of character with prevailing building heights in the area.
13. The Framework states that planning policies and decisions should not seek to impose architectural styles or particular tastes, but that it is proper to promote or reinforce local distinctiveness. The building would be contemporary in design, with a flat roof and balconies, and would be finished in white render, with timber and red brick detailing. The streetscene in the locality of the appeal site is relatively varied, with Victorian and Edwardian properties juxtaposed with more modern buildings, including the Esso garage, and the nearby Homebase store. This lack of uniformity means that the proposed development would not be incongruous with its surroundings, in terms of its design, scale, massing or materials.
14. The Council has also referred to the impact of the proposal on the setting of nearby listed buildings in its final comments, but the reasons for refusal made no reference to this matter. Nevertheless, as it has been raised as part of the Council's representations on this appeal, it is necessary for me to consider the implications of the proposal on the significance of these heritage assets, in accordance with the expectation of the Act in this regard, to which I am required to, and have had, special regard.
15. I saw the position of No 122 Church Hill in relation to the appeal site, and consider that due to the intervening distance between that property and proposed development, which would both be set well back from the road on opposite sides of Church Hill, the development would not be readily visible in the same viewpoint looking along the road in either direction. It has also been put to me that the proposed building would be prominent in longer views of St John the Baptist Church from Goldings Hill, but it would only be partially visible behind the flank parapet walls and tall chimney stacks of the Plume and Feathers, due to the set back of the front building line of the proposed building.

As such it would not appear overly prominent in longer distance views towards the church. For these reasons I am satisfied that the development would preserve the setting of these listed buildings.

16. For all of the above reasons I conclude that the proposal would not harm the character and appearance of the surrounding area. Thus it would accord with LP Policy CP2 (iv), which requires that developments safeguard the setting, character and townscape of the urban environment; LP Policy CP7 which seeks to make the fullest use of existing urban areas for new development whilst maintaining and improving their environmental quality; and LP Policy DBE1. This requires that new buildings respect their setting, adopt a significance in the streetscene appropriate to their use or function, and employ external materials sympathetic to the vernacular range of materials.
17. These policies are consistent with the National Planning Policy Framework, which requires a high quality of design in all new development.

### **Other Matters**

18. The occupants of No 34 Marjorams Avenue are concerned with the height of the development and its proximity to the rear boundary of their property, but given the separation distance of approximately 20m between the rear of No 34 and the proposed building, and the screening provided by existing mature trees along the rear boundary, the development would not be unacceptably overbearing in this respect.
19. I have had regard to all other matters raised, including the existence of other retail stores in the Loughton area, the recent planning permission for a retail store on a nearby site, and the availability of other developable land nearby, but none of these matters, either individually or cumulatively would alter my overall conclusion.

### **Conditions and Conclusion**

20. I have found that the development would be acceptable subject to certain conditions, with due regard to the advice in the National Planning Practice Guidance (the Guidance). In addition to the standard time limit condition, I shall require the approved plans for the avoidance of doubt and in the interests of proper planning.
21. I shall require details of the materials to be used in the construction of the building to be submitted to and approved by the local authority to safeguard the character and appearance of the area.
22. The HA has suggested conditions requiring a construction method statement; for the access to be implemented in accordance with drawing ref. ST-2341-2-F and dated 24 April 2014; and for a delivery and servicing plan to be submitted to and approved by the local planning authority prior to the first occupation of the development. I shall also impose a condition requiring the proposed parking area to be laid out prior to the first occupation of the development and retained as such thereafter, omitting the reference to staff in the Council's suggested condition as there will be no staff parking. A Car Parking Management Plan is also required to be submitted to and approved by the local planning authority. These conditions are all necessary in the interests of highway safety and efficiency.

23. I have considered the suggested condition requiring the appellant to contribute to the upgrading of the two bus stops within the vicinity of the appeal site with integral Real Time Passenger Information within each shelter. However, I note the Guidance advises that a condition should not be used to require a financial contribution, and the Council have not provided sufficient evidence to quantify the contribution or to justify why such improvements are necessary or fairly and reasonably related to the development subject of this appeal. Accordingly I shall not impose the condition.
24. The Council has suggested the appellant should provide a Residential Travel Pack prior to the first occupation of the development. A Residents Travel Information Pack was submitted with the planning application, so I have amended the wording of the condition to require that the pack is provided to each household prior to first occupation. The condition is necessary to promote sustainable travel modes.
25. A condition requiring the submission of details of the surface water drainage and their approval by the local planning authority is necessary to ensure that the site is properly drained and to reduce surface water run-off to the highway. However I shall not require a Flood Risk Assessment as the Council's Engineering, Drainage and Water Team have confirmed this is not required.
26. Conditions to control construction methods and hours of construction and demolition; to prevent bonfires on site during demolition and construction; to limit the hours of operation of the retail unit; to require the completion and retention of refuse storage; to require sound insulation of the residential units and control of the noise level of any air conditioning and/or refrigeration units; and to require full details of hard and soft landscaping are all required in the interests of residential amenity.
27. I am satisfied that given the previous uses on the site and evidence of previous contamination, conditions requiring land contamination investigations, and where appropriate remediation works and monitoring, are necessary to safeguard the living conditions of future occupants of the residential units.
28. A detailed Arboricultural Method Statement, Tree Protection Plan and site monitoring schedule are also required to be submitted to and approved by the local planning authority to ensure the sufficient protection of existing trees on site, to safeguard the character and appearance of the area.
29. For the above reasons, and with due regard to all other matters raised, I conclude the appeal should be allowed.

*Claire Victory*

INSPECTOR

### **Schedule of 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: site plan; 13019-100 rev.B; 13019-102 rev.A; 13019-100 rev.B; 13019-103 rev.D; 13019-104 rev.G; 13019-105 rev.E; 13019-110 rev.A; ST-2341-2-F; ST-2341-14-A; ST-2341-18-A; ST-2341-15 D; ST-2341-19; A Tree Survey Plan; Tree Protection Plan; DFCC 0715-P01 Rev.B; DFCC 0715-P02 Rev.B.
- 3) No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the local planning authority, in writing. The development shall be implemented in accordance with such approved details.
- 4) No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for the following all clear of the highway:
  - Safe access into the site
  - The parking of vehicles of site operatives and visitors
  - Loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - Wheel and underbody washing facilities
  - Measures to control the emission of dust and dirt during construction
  - A scheme for recycling/disposing of waste resulting from demolition and construction works
- 5) Prior to the first occupation of the proposed development, the access works, as shown on drawing no ST-2341-2-F dated 24 April 2014, shall be fully implemented and retained as such thereafter.
- 6) Prior to first occupation of the proposed development the details of the Delivery and Servicing Plan shall be submitted to and approved in writing by the local planning authority, to include but not limited to: delivery times, the size of delivery vehicles and the direction of entry into the site. All deliveries for the site will then be undertaken in accordance with the approved plan.
- 7) A copy of the submitted Residential Travel Information Pack shall be made available to each household prior to the first occupation of the proposed development.
- 8) Prior to commencement of the development a drainage management and maintenance plan shall be submitted to and approved in writing by the local planning authority. The assessment shall include calculations of increased water run-off and the associated volume of storm water

- retention. The approved measures shall be implemented prior to the completion of the development and retained as such thereafter.
- 9) Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
  - 10) No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the local planning authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved in writing by the local planning authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" or any subsequent version or additional regulatory guidance.
  - 11) Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the local planning authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the local planning authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
  - 12) Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved remediation scheme, which must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any

subsequent version, in relation to the intended use of the land after remediation.

- 13) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 14) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved in the approved remediation scheme; a verification report must be submitted to and approved in writing by the local planning authority.
- 15) All construction/demolition works and ancillary operations, including vehicle movements on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07:30 to 18:30 Monday to Friday and 08:00 to 13:00 hours on Saturday, and at no time during Sundays and Bank Holidays.
- 16) The retail use hereby permitted shall not be open to customers outside the hours of 07:00 to 23:00.
- 17) The parking area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents' and visitors' vehicles.
- 18) Prior to the first use of the retail use hereby approved, a Car Parking Management Plan shall be submitted to and approved in writing by the local planning authority. The car park shall operate in accordance with the approved details.
- 19) No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the local planning authority. The works shall be carried out as approved. The hard landscaping details shall include: proposed finished levels or contours, means of enclosure, other minor artefacts and structures, including signs and lighting and functional services above and below ground. Details of soft landscaping works shall include: plans for planting and full written specifications and schedules of plants, including species, plant sizes and proposed numbers/densities where appropriate. If within a period of five years from the date of planting of any tree, plant or shrub, it is removed, uprooted, or destroyed or dies or becomes seriously diseased or defective, another tree, plant or shrub of the same species and size as that originally planted shall be planted at the same place.



- 20) No development, including works of demolition or site clearance shall take place until a Arboricultural Method Statement, Tree Protection Plan and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction – recommendations) has been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 21) The refuse storage facility shown on the approved plans shall be completed prior to the first occupation of the development and shall thereafter be retained free of obstruction and used for the storage of refuse and recycling only and for no other purpose.
- 22) No bonfire shall be permitted on site throughout the demolition and construction phase of the development.
- 23) The bedrooms to the proposed residential accommodation shall be provided with sufficient double glazing and acoustically treated trickle ventilators, or other means of ventilation that will provide adequate ventilation with the windows closed, to ensure that the occupiers are provided with reasonable resting/sleeping conditions with reference to BS8233: 2014 – Sound insulation and noise reduction for buildings – Code of Practice. Details of the proposed double glazing and acoustically treated trickle ventilators, or other means of ventilation shall be submitted in writing to and agreed by the local planning authority, and installed before any residential unit is occupied.
- 24) The rating level of noise (as defined by BS4142:1997) emitted from the air conditioning and refrigeration plant shall not exceed 5dB(A) above the prevailing background noise level. The measurement, position and assessment shall be made according to BS4142:1997.
- 25) No deliveries shall be taken at or despatched from the site outside the hours of 07:00 to 20:00 Monday to Saturday; 08:00 to 20:00 Sunday or Bank Holiday or other Public Holiday.