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## Appeal Decision

Site visit made on 10 November 2015

by **H Baugh-Jones BA(Hons) DipLA MA CMLI**

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

Decision date: 10 December 2015

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**Appeal Ref: APP/J1535/W/15/3127876**

**6 Scotland Road, Buckhurst Hill, Essex IG9 5NR**

- 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 Carl Hellen against the decision of Epping Forest District Council.
  - The application Ref EPF/2773/14, dated 13 June 2014, was refused by notice dated 1 April 2015.
  - The development proposed is demolition of existing house and replacement by two no. detached houses.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and replacement by two no. detached houses at 6 Scotland Road, Buckhurst Hill, Essex IG9 5NR in accordance with the terms of the application, Ref EPF/2773/14, dated 13 June 2014, subject to the conditions set out in the Schedule to this decision.

### Main Issues

2. The main issues in this appeal are the effect of the development proposed on (i) the character and appearance of the area and (ii) the living conditions of neighbouring occupiers with regard to light and sunlight.

### Reasons

#### *Character and appearance*

3. Scotland Road comprises a mix of detached and semi-detached dwellings of varied appearance so there is no dominant overall architectural style within this residential area. The appeal site is currently occupied by a detached two-storey dwelling set back behind a front garden that rises from the road. The plot is wider than many of those nearby which results in a significant separation distance between the existing house and its neighbours.
  4. The appeal proposal would see the existing house demolished and two new dwellings erected in its place. This would necessitate greater use of the plot's width and the current separation distances between properties would be reduced. However, this would not appear at odds with a street scene within which a significant number of dwellings span the majority of their plot widths or with the smaller separation distances that result. Consequently, the introduction of two dwellings on the appeal site would appear little different in terms of overall built form compared to many other residential plots.
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5. The style of the proposed dwellings would be redolent of the character of the existing house and other properties in Scotland Road. Further, their roof heights would be stepped slightly to follow the east-west rise of the road and would be generally in keeping with the overall roof line in the street. I accept that the dwellings' elevations fronting the street would be narrower than the immediate neighbouring properties and that this could create a perception of increased height. However, it is clear from the submitted plans that the dwellings would be of two-storey height and that the one nearest to No 4 would not be significantly higher. Therefore, the dwellings would not appear discordant in the street scene or disrupt the general rhythm of development along it.
6. Whilst the proposed front elevations would be staggered, the degree of set back between the two dwellings would be modest and at my site visit, I observed that there is some variation in the building line to the east of the appeal site, notwithstanding the dramatic change created by the set back of the semi-detached dwellings forming Nos 8-14. Therefore, this aspect of the appeal scheme would not appear incongruous given this context.
7. I note from the Council's officer report that the proposed frontage layout of the development was not considered to be satisfactory. However, I am satisfied that this matter could be dealt with by means of a suitably worded condition and does not materially affect the consideration of this appeal.
8. I also note the neighbour's comments with regard to the lack of details in terms of materials. Notwithstanding that there is much variation in property elevation treatments and fenestration present within Scotland Road, this is also a matter that could be the subject of a condition with the aim of ensuring the materials used reflected the general built character and appearance of the area.
9. For the above reasons, the development would not be out of keeping with the overall character or appearance of the area or appear cramped on the plot. Consequently, the proposals would be in accordance with saved policy DBE1 (i) and (ii) of the Adopted Epping Forest District Local Plan (1998) (LP) that requires new buildings to respect their settings and the street scene by way of their form and design. The proposals would also be consistent with the requirements of saved policy DBE2 in terms of the functional relationship with the surrounding properties. Additionally, the appeal scheme would be consistent with the National Planning Policy Framework (the Framework) requirement for good design with particular regard to paragraphs 60 and 61.

*Living conditions*

10. The spatial relationship between the appeal property and its neighbour at No 8 is unusual in that the building line changes dramatically between the two dwellings with No 8 set much further back on its plot. The proposed dwelling closest to No 8 would be positioned tight up against the boundary thereby potentially affecting the amount of light to the front of the property. However, the existing boundary vegetation within the curtilage of the appeal site already creates a similar effect and the level of change would not therefore, be of sufficient magnitude to count against the appeal scheme.
11. Turning to sunlight, the orientation of dwellings on the southern side of Scotland Road in relation to the east-west arc of the sun means that there

would be no effect on the amount of sunlight to the front windows of No 8. Further, given that the positioning of the proposed dwellings on the plot would be well forward of the rear of No 8, there would be no effect on the amount of sunlight reaching any part of the rear of that property.

12. The proposed dwelling next to No 4 would project marginally further forward than the existing dwelling and would be in close proximity. However, given that No 4's main ground floor window is located in the eastern part of the front elevation, any effects on the available light to No 4's front rooms would be minor and acceptable.
13. The proposed dwelling nearest to No 4 would have a stepped rear elevation. From my observations at my site visit, the submitted plans and the photographic evidence provided by the neighbouring occupier, it is clear that the closest rear corner of the proposed dwelling next to No 4 would be only marginally closer than the corresponding corner of the existing dwelling at No 6. By means of the proposed 1m separation between No 4 and the nearest proposed dwelling with its stepped rear elevation, any reduction in the available light to the rear of No 4 would be minimal and acceptable. Whilst there would be a reduction in sunlight, this would also be very minimal and restricted to the latter part of the afternoon. On balance, there would be no unacceptable effects on the living conditions of No 4 with regard to sunlight.
14. The appeal scheme would result in a change to the outlook from No 8's front rooms. Whilst I have some sympathy with the neighbours in this regard, given that there would be a reasonable separation distance maintained between dwellings, the effects would not amount to a level of harm over and above the existing situation that could be considered 'excessive' for the terms of saved policy DBE9. On balance, whilst the arrangement is by no means perfect, the effects on the outlook of No 8's occupiers do not outweigh my other conclusions that the appeal scheme is acceptable.
15. I note the argument of the occupier of No 4 regarding his loss of views along the road. However, the effects suggested appear to me to be exaggerated given that the nearest proposed dwelling would project only marginally further forward of the building line of No 4. In any case, loss of views does not constitute a valid planning argument.
16. For the above reasons the appeal proposal accords with the requirements of saved policy DBE2 which seeks to prevent detrimental effects on neighbouring properties and saved policy DBE9 that deals with matters concerning loss of daylight and sunlight.

#### **Other matters**

17. A third party has suggested that the proposed dwellings would not meet lifetime homes requirements. However, in March 2015, the Government introduced the *Technical housing standards – nationally described space standard*. The Council has not made me aware of any requirement for the proposed development to meet the new optional standards.
18. I have had regard to the various other matters raised by third parties but do not consider they constitute any planning arguments that tip the balance against the appeal scheme and therefore do not outweigh my conclusions on the main issues.

### **Conditions**

19. I have had regard to the various conditions suggested by the Council, having also had regard to paragraph 206 of the Framework and Planning Practice Guidance (PPG). The conditions imposed are based on those suggested by the Council but with some variation in the interests of clarity.
20. Those relating to the standard time limit and the approved plans are necessary in the interests of proper planning and for the avoidance of doubt. A condition requiring details of the frontage layout and materials is necessary in order to ensure that the functional relationship between vehicles and pedestrians and the appearance of the development are satisfactory and in the interests of highway safety. A condition requiring the approval of materials is necessary to ensure the appearance of the development is satisfactory.
21. A condition relating to the discharge of surface water is necessary in the interests of highway safety. Given the residential character of the area, it is necessary to control the hours of demolition and construction. The Council's suggested conditions relating to vehicular access, parking space dimensions and footway crossings are adequately covered by [my] condition 3. In the interests of the proper development of the site, given the amount of material to be excavated, it is necessary to impose conditions relating to the submission of existing and proposed levels prior to any development taking place and the removal of material from site.
22. PPG makes it clear that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, in this case some limited removal of permitted development rights relating to additional windows is necessary in order to protect the living conditions of the occupiers of No 8 Scotland Road. Additionally, in order to ensure the character and appearance of the street scene is not affected by future unsympathetic enlargements, I have imposed a condition restricting the alterations that can take place to the dwelling's roofs. However, the blanket of removal of permitted development rights as suggested by the Council, would not pass the test of necessity, hence the more targeted approach demonstrated by the conditions I have imposed.
23. The Council's suggested conditions relating to contamination are not supported by any evidential need and given the domestic use of the land are unduly onerous. Accordingly, I see no reason to impose them. For a development of this scale and on this particular site, I consider the suggested condition relating to wheel washing to be over-prescriptive and unnecessary. Neither is it necessary to require the landscaping of private gardens.

### **Conclusion**

24. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

*Hayden Baugh-Jones*

Inspector

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) With the exception of the area to the north of the front elevations of the dwellings, the development hereby permitted shall be carried out in accordance with the following approved plans: Land Registry Current Title Plan, HEL 04P A, HEL 05P.
- 3) Notwithstanding the details shown on the approved plans referred to in Condition 2, the dwellings shall not be occupied until full details of the layout of the area to the north of the front elevations of the dwellings have been submitted to and approved in writing by the local planning authority. These details shall include pedestrian and vehicular access, parking arrangements, all hard surfacing materials and the provision of dropped kerbs. These works shall be carried out in accordance with the approved details before the dwellings are occupied.
- 4) With the exception of demolition works, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
- 5) No development shall take place until details of all floor levels in relation to existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Before the dwellings are occupied, full details of 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. These works shall be carried out before the dwellings are occupied and/or before the access is brought into use and shall thereafter be retained.
- 7) Demolition or construction works shall not take place outside 0730 hours to 1830 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the western elevation of the westernmost dwelling.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2, Part 1, Class B.