

Appeal Decision

Site visit made on 8 December 2015

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 01 February 2016

Appeal Ref: APP/J1535/W/15/3131042

Land to rear of 94 Lawton Road, Loughton, Essex

- 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 Brendan McParland of Brenland Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/0645/15, dated 18 March 2015, was refused by notice dated 3 June 2015.
 - The development proposed is residential development comprising 5 N^o 2 bed apartments and 2 N^o 1 bed apartments.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development comprising 5 N^o 2 bed apartments and 2 N^o 1 bed apartments at Land to rear of 94 Lawton Road, Loughton, Essex in accordance with the terms of the application, Ref EPF/0645/15, dated 18 March 2015, subject to the conditions set out in the attached schedule.

Procedural Matters

2. I have used the site address given on the appeal form in my decision as this appears to be more accurate than that given on the application form.
3. Amended site plans were submitted with the appeal¹. Those plans were not before the Council when it made its decision. The amendments show the distances between adjacent houses and the proposed development and do not alter the proposal. I consider that no party would be prejudiced by my considering the proposal on the basis of those plans.

Main Issues

4. The main issues in the appeal are the effects of the proposed development on:
 - i) the character and appearance of the area;
 - ii) highway safety; and
 - iii) the living conditions of adjacent residents.

¹ Ref 2013-510-002 Revs A and B

Reasons

Character and Appearance

5. The site is to the rear of residential development on Lawton Road. The frontage building was previously used as a day care centre and has been converted and extended to form four dwellings. To the rear of the site is an area of open space forming part of a residential estate at Fairmeads. The site is accessed via a drive to the side of 92 Lawton Road and was previously used as garden and a car park in association with the day care centre. In the immediately surrounding area the houses are of two storeys and predominantly semi-detached and terraced. Open spaces adjacent to the main roads give a spacious quality to the area.
6. Policy CP7 of the Epping Forest Local Plan Alterations (LPA) (2006) seeks to make efficient use of land in urban areas while avoiding over-development. That policy supports the recycling of vacant land and the use of higher densities where this is compatible with the character of the area.
7. The density of the proposed development would be higher than that of the surrounding dwellings but the overall scale of the building in comparison with the adjacent terraces would not be excessive. Its roof height would be similar to those of the adjacent houses and the setting of the first floor accommodation partially within the roof would limit its scale. The building would adjoin the public open space within the Fairmeads estate and the rear gardens of the adjacent properties thereby maintaining space around it. An area of shared amenity space would also be provided within the site. These aspects would avoid the development having a cramped appearance. The proposal would accord with policy DBE1 of the Epping Forest Local Plan (LP) (1998) in terms of its scale and height respecting the setting.
8. The lime tree within the site is protected by a Tree Preservation Order. Works would be undertaken to reduce the height of the crown and the lateral branches and remove epicormic growth in the interest of good arboricultural practice. Tree protection measures are to be provided during construction works in respect of that tree and other adjacent trees.
9. Whether or not the site was previously a residential garden no policy specifically resisting garden development has been put forward and there are no grounds for considering the proposal to be contrary to the National Planning Policy Framework (the Framework) in this regard.
10. For these reasons the proposed development would not be harmful to the character and appearance of the area. The proposal would accord with policies CP7 and CP2 (iv) of the LPA, the latter requiring the setting, character and townscape of the urban environment to be safeguarded and enhanced.

Highway Safety

11. The site has good accessibility by public transport with bus services along Lawton Road and Pyrles Lane. Debden underground station is about 0.7 miles away. There are shops, schools and medical services in the area. A bicycle storage facility for 7 bicycles would be provided as part of the development.

12. The Framework seeks to make fullest possible use of public transport, walking and cycling². Paragraph 39 of the Framework advises that, in setting local parking standards, local planning authorities should take into account the accessibility of the development and the availability of public transport. Although there is provision in the Essex County Council Parking Standards (2009) for its minimum standards to be relaxed where there is good public transport and access to other services, this approach is not entirely consistent with the Framework.
13. The proposal would fall some way short of the minimum parking standard but there are alternative sustainable modes of transport available, the use of which is encouraged by the Framework.
14. There is unrestricted on-street parking on Lawton Road and Pyrles Lane. Interested parties have referred to parking congestion. However the Highway Authority considers that the proposal would be acceptable in terms of highway safety and I see no reason to disagree.
15. For these reasons the proposal would not be prejudicial to highway safety. The proposal would not accord with policy ST6 of the LPA but that policy is not consistent with the Framework. I give reduced weight to policy ST6 and greater weight to the Framework in this regard.

Living Conditions

16. The part of the building containing windows would be over 23 metres away from the rear of 92 – 98 Lawton Road. The windows facing towards the rear of 102-104 Lawton Road would be a minimum of 21metres away from those dwellings and at an angle to them. The first floor windows would include living room windows but those separation distances would in my view be sufficient to avoid unacceptable levels of overlooking. The existing trees within the site would further reduce the potential for any overlooking by providing screening when in leaf.
17. The part of the building facing the rear of the houses on Pyrles Lane would not contain windows. The part adjacent to 48 Fairmeads would contain a first floor window but this would not directly face its rear garden. For these reasons the proposal would not result in unacceptable overlooking of neighbouring properties.
18. Given that the proposed building would be separated from adjacent houses by reasonable distances and its height would be similar to those houses it would not be unacceptably overbearing or obstructive of sunlight and daylight.
19. I have taken into account the concerns of local residents about noise and disturbance from car parking. The access drive and rear car park were previously used in association with the former day care centre. It is unlikely that the volume of traffic using the drive and car park would significantly increase such as to cause unacceptable disturbance or that on-street parking would do so.
20. I see no reason why the use of the communal garden by residents would be harmful to amenity. For the reasons given the proposal would not harm the

² Paragraph 17

living conditions of adjacent residents and would accord with policies DBE2 and DBE9 of the LP which require that there is no detrimental effect upon amenity.

Other Matters

21. I have taken into account all other matters raised, including accessibility by service and emergency vehicles. Those matters do not alter my conclusions on the main issues.

Conditions

22. I have had regard to the tests in paragraph 206 of the Framework in imposing conditions. The Council has not suggested the imposition of any conditions. However I have had regard to the responses from Council officers, interested parties and other bodies and the recommended conditions in the Council's committee report.

23. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt. Details of external facing materials would require approval in order to ensure the appearance of the development is acceptable.

24. A condition requiring wheel washing is necessary to ensure that mud is not deposited on the road in the interest of highway safety. A condition restricting working hours during construction is necessary to safeguard the amenities of adjacent residents.

25. The provision of a Travel Information Pack to the occupiers of the development is necessary to maximise the use of sustainable transport.

26. A condition restricting the discharge of surface water onto the highway is necessary in the interest of highway safety.

27. The appellant's Arboricultural Statement includes a Method Statement which makes provision for protective fencing adjacent to the trees. The Council's Trees and Landscape Officer requested further information but I consider the submitted information to be sufficient to ensure the protection of the adjacent trees. I have imposed a condition requiring work to be carried out in accordance with those details.

28. A condition requiring the submission and approval of hard and soft landscaping works is necessary to ensure that the development is visually acceptable in the context of the adjacent open space.

29. Conditions requiring a flood risk assessment and drainage details to be approved are referred to in the committee report. However no evidence has been provided to indicate a need for those conditions and thus they would not pass the test of necessity in paragraph 206 of the Framework.

Conclusion

30. For the reasons given I conclude that the appeal should be allowed.

Nick Palmer

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: 2013-510-002B, 2013-510-010, 2013-510-011, 2013-510-012 and 2013-510-014.
- 3) 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.
- 4) No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall have previously been submitted to and approved in writing by the local planning authority.
- 5) Construction works shall only take place between 07:30 and 18:30 hours Mondays to Fridays, between 08:00 and 13:00 hours on Saturdays and not at all on Sundays and bank/public holidays.
- 6) A Travel Information Pack for sustainable transport which shall include 6 N^o one day travel vouchers for use on local public transport shall be provided to each dwelling upon its occupation. Details of the Travel Information Pack shall be submitted to and approved in writing by the local planning authority before any unit is first occupied.
- 7) There shall be no discharge of surface water onto the highway.
- 8) The development shall be carried out in accordance with the Arboricultural Method Statement by Tim Moya Associates Ref 140330-PD-21.
- 9) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. This shall include details of proposed finished levels or contours, services, lighting, hard surfacing and means of enclosure. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.