
Appeal Decision

Hearing held on 17 June 2015

Site visit made on 17 June 2015

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 24 August 2015

Appeal Ref: APP/J1535/A/14/2229418
120 High Road, Chigwell, Essex, IG7 5AR

- 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 Higgins Homes Plc against the decision of Epping Forest District Council.
 - The application Ref EPF/1629/14, dated 11 July 2014, was refused by notice dated 1 October 2014.
 - The development proposed is demolition of existing single dwelling house and the erection of two new apartment buildings together with associated landscaping and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing single dwelling house and the erection of two new apartment buildings together with associated landscaping and car parking at 120 High Road, Chigwell, Essex, IG7 5AR in accordance with the terms of the application, Ref EPF/1629/14, dated 11 July 2014, subject to the conditions in Annex A.

Procedural Matter

2. It was confirmed at the hearing that plan 12.7192.402B was deposited with the Council and formed part of its decision and that the annotation on plan 12.7192.423 A required correction. The appeal is considered on this basis.

Application for costs

3. At the Hearing an application for costs was made by Higgins Homes Plc against Epping Forest District Council. This application will be the subject of a separate Decision.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the setting of Chigwell Lodge (122 High Road), a Grade II listed building; and
 - The effect of the loss of 'Key West'.

Reasons

Character and appearance

5. The site is located on the east side of High Road. To the south and west of the site the road is characterised by detached dwellings. These properties are generally large with varying degrees of space and landscaping. To the north is flatted development and Chigwell Station. The site is at a transitional point in the street. It sits between the flats and single detached dwellings.
6. The appeal proposal would replace the single dwelling 'Key West' with two buildings containing flats. Block A would be located toward the front of the site and Block B to the rear. I appreciate that the Council have granted planning permission for a building at the rear of the site¹.
7. The appeal site is wide. As such the footprint of the buildings would not fill either the width or depth of the site. In particular the position of Block A would be set back from the road and would retain space around it. The gaps to the site boundary would be greater than some others along High Road that I observed. Furthermore, the access to No 122A would increase the gap to the south. In addition the siting would allow a high proportion of the existing planting on the site to remain along the road frontage and along the boundary with the golf course beyond. For these reasons the development would not appear out of character in terms of spaciousness.
8. The design approach of the building would make it appear like a large detached dwelling. The front of the building would have a single entrance point. It would appear symmetrical either side. The scale of the building would not be substantially greater than the existing buildings in the street. This is demonstrated in the submitted street elevations. Furthermore, the use of hipped roof forms would serve to lessen the overall impact of the building. It would also be compatible with the style and design of No 118.
9. I note that the Council consider that the scale of development should reduce moving away from the local centre. Further I note that some parties consider that the proposal is a 'step too far'. However, the site location is transitional in the street scene and its size is such that it can accommodate a building of the size proposed. I appreciate that the mitigation provided by frontage landscaping would be seasonal. Nevertheless a building of the design and appearance proposed would not look out of place in the street scene along High Road.
10. I understand that the Council consider that the development at No 118 should not be seen as a precedent particularly because it is closer to the centre than the appeal site. Nevertheless, the fact remains, any development on the appeal site would have to relate to No 118 as well as Nos 122A and 122. Therefore, its appearance and form cannot be discounted when assessing the street scene.
11. I appreciate that the change from one dwelling to flats would increase the number of residents on site. The design uses basement parking for the majority parking for building 'A' and building 'B' does not change the approach from that already consented. There would be some visible parking areas for building 'A'. However, this amount would be comparable to the frontage parking associated with other large dwellings nearby. As such it would not appear out of character.

¹ LPA Refs EPF/2566/14 & EPF/2141/12

12. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area. It would not be in conflict with policies CP2, CP7 and DBE1 of the adopted Local Plan (LP) which amongst other things require new developments to safeguard and enhance the setting, character and townscape of the urban environment and provide high quality design.

Effect on the setting of Chigwell Lodge

13. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF defines the setting of a heritage asset as the surroundings in which the asset is experienced, pointing out that the extent of the setting may change as the asset and its surroundings evolve.
14. Chigwell Lodge is described as a house from the late 18th century. It is constructed from stock bricks and has a roof of slate and tiles. It has a mansard roof form and broadly symmetrical front elevation. It is a substantial dwelling with space around it. This space has changed as the original estate that it was part of has evolved. The front elevation is the main view within the established street scene. Its materials and architectural quality are key features. Its setting has evolved over time. In particular with the introduction of No 122A to the rear.
15. As it stands Chigwell Lodge is prominent in the street scene when approaching from the south west with the appeal site seen behind it. It is less prominent approaching from the north east. From this aspect the frontage planting to the appeal site is seen first and then Chigwell Lodge comes into view.
16. The appeal proposal would increase the amount of built form in the front area of the appeal site by introducing a larger building than 'Key West'. Nevertheless the plans indicate that a substantial gap would remain between Chigwell Lodge and the appeal site. In particular the access to No 122A would intervene and the existing trees and planting on the boundary of No 122A would not be affected by the proposal. Furthermore trees are shown to be retained along the frontage of the appeal site.
17. The view of Chigwell Lodge approaching from the north east would not change significantly as the frontage planting on the site would remain. From the south west the key change would be that some of the roof of the new building would be viewed in conjunction with Chigwell Lodge. I appreciate that the new building would be more substantial than 'Key West' being deeper and treated with a crown roof. However, it would have space around it and the roof would be lower in height adjacent to the access and driveway of No 122A. The use of two roof heights would serve to lessen the impact of this elevation. Further the access to No 122A provides a visual separation. For these reasons I do not consider that the appeal proposal would in fact compete with Chigwell Lodge. Furthermore, I agree with the appellant's assessment that Chigwell Lodge has a strong formal frontage. I do not consider that its prominence would be diminished by the addition of the appeal building. Therefore I do not consider that the elements that contribute to the setting of the building and its presence in the street scene would be harmed by the appeal proposal.

18. I therefore conclude that the development would not harm the setting of Chigwell Lodge. It would therefore not be in conflict with Local Plan policy HC12 which seeks to resist development that would harm the setting of a listed building and paragraph 137 of the Framework.

The loss of 'Key West'

19. The building does not fall within a Conservation Area and on 4 November 2014 English Heritage concluded that it did not merit inclusion on the statutory list of buildings of special architectural and historical interest. It did note that it may have local architectural interest as a modern architect designed house.
20. There is no statutory protection for the building. However, paragraph 135 of the Framework is clear that effect of an application on the significance of non-designated heritage assets should be taken into account. The Planning Practice Guidance (PPG) sets out that local authorities may identify non-designated heritage assets. Local lists are given as one useful way of identifying these assets but it is clear that not being on a list would not preclude a building from being considered. Such assets have a degree of significance due to their heritage interest that merits consideration in the planning process.
21. There is no dispute between parties that the building merits consideration as a non designated heritage asset. The difference relates to the significance of the building and thereby whether it merits retention or not. In this case for the development to go ahead the building would have to be removed and would be lost. Therefore consideration of the scale of harm from its loss is required, having regard to its significance.
22. Key West was designed by Stanley Keen in 1963. It was commissioned by Mr Alex Pelican. I appreciate that the link to Stanley Keen may not have been known when the Local List was put together. Nevertheless the Council have not placed the building on a local list of buildings of special or architectural and historic interest in the borough. The dwelling was extended in 1974 to provide a first floor study and to increase the area of the kitchen and utility area. It is constructed from brick with cedar cladding and has flat roof forms. It was pointed out at the hearing that, due to connections to the Essex Design Guide and South Woodham Ferrers, Stanley Keen cannot be dismissed as a mediocre architect. However, the English Heritage report highlights that the property is a derivative of earlier properties and as such does not demonstrate ingenuity or innovation. Furthermore, it considers that the extensions have harmed the original character of the house. I appreciate that these comments were made in response to the request for inclusion on the statutory list. Nevertheless, these observations contribute to understanding the significance of the building.
23. There is no dispute that the building is modernist in its approach. It does not utilise unusual materials or workmanship. However, the appellant pointed out that Stanley Keen was not a renowned residential architect. Furthermore, whilst this not a determining issue in itself I understand that the building now has maintenance issues. By the Council's own admission 'Key West' is a well hidden and low rise building that is mainly glimpsed within the street scene. It cannot reasonably be described as a 'landmark' building or having a significant impact in the immediate area.
24. I appreciate that the building is of architectural interest. However, based on the evidence in this case, I do not consider that it makes a strongly significant

contribution to the character and appearance of the immediate area and its integrity has been diminished over time and by extensions. It does not have sufficient architectural, historical or visual interest to justify its retention. Therefore, its removal would not be harmful and a proportionate approach would be to record it using a planning condition.

25. At the hearing my attention was drawn to an appeal decision in Barking and Dagenham². All parties had an opportunity to consider and comment on this decision. In this case the decision turned on the strong social history and links of the building, its architectural quality and its presence in the street scene. The building in this case was also on the relevant Local List. As such this case is clearly distinct from the appeal proposal.
26. Paragraph 135 of the Framework sets out that *'in weighing applications that affect directly or in directly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset'*. In this case the scale of harm would be the loss of the building. However, based on the evidence before me, I do not consider that the significance of the building would justify resisting permission for development of the site.

Other matters

27. The Council does not have CIL in place. The appellant has provided a signed and dated unilateral undertaking that makes provision for education through payment of an infrastructure contribution. At the hearing the Council confirmed that it expected pooled contributions to be collected through planning obligations. I have been provided with information from the County Council that details that the need would be for secondary school places. However, I have not been provided with any information regarding whether more than five obligations have already been collected for this project. As such, I have not taken the obligation into account in my determination of the appeal.
28. I was pointed out at the hearing that the Framework excludes garden land from 'previously developed land'. I also note that paragraph 53 suggests that inappropriate development of garden land should be resisted where it would harm the local area. In this case I have found that the development would not harm the character and appearance of the area.
29. I have had a number of other appeal decisions drawn to my attention³ for No 118 High Road, No 122A High Road and No 154 High Road. Whilst I have considered these decisions I have ultimately considered the appeal before me on its individual merits.

Conditions

30. The Council has suggested a number of conditions which it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Framework and PPG and for clarity some of the proposed wording is amended. Conditions are necessary that relate to the time limit of the

² APP/Z5060/A/13/2210609

³ APP/J1535/A/10/2137088; APP/J1535/A/08/2092369; APP/J1535/A/06/2008145; APP/J1535/A/05/1178606; APP/J1535/A/08/2064435

permission and a condition regarding the identification of the approved plans is required for the avoidance of doubt.

31. In the interests of the character and appearance of the area conditions are necessary to secure the materials, construction management, detailed landscaping proposals and tree protection. In the interests of highway safety details of parking arrangements, access and surface water drainage are necessary. Conditions are also necessary to record the property 'Key West' and regarding the details of floodrisk management and maintenance. To protect the living conditions of nearby residents a condition is also necessary regarding construction management.
32. The Council suggested a condition regarding travel information packs. I have not been provided with any evidence regarding the policy basis for this or why it is necessary. Therefore I have not imposed it.

Conclusion

33. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steven Hancocks	Higgins Homes
Brendan Hodges BA Hons M.Phil MRTPI	Nathaniel Lichfield and Partners
Judith Livesey BA MA MRTPI	Nathaniel Lichfield and Partners
Nick Bishop BA Hons Grad Dip RTPI Licentiate, LHBC affiliate	Nathaniel Lichfield and Partners
James Crawley HND Building Studies	CHBC Architects
Alex Pelican	
Gudrun Pelican	

FOR THE LOCAL PLANNING AUTHORITY:

Ralph Bintley MA Dip TP	Consultant acting for Epping Forest District Council
Maria Kitts	Epping Forest District Council
Jerry Godden	Epping Forest District Council

INTERESTED PERSONS:

Chris Pond OBE MA PhD Hon FClip	Loughton and District Historical Society
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Annex A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples 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.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 12.7192.010 B; 12.7192.401 C; 12.7192.402 B; 12.7192.411 B; 12.7192.412 B; 12.7192.413 A; 12.7192.414 A; 12.7192.415 A; 12.7192.421 A; 12.7192.422 A; 12.7192.423 A; 12.7192.431 A; 12.7192.432 A; 12.7192.433 A; 12.7192.441 A; 12.7192.451 A; 12.7192.452 A; 3927 – D rev B.
- 4) The building shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plan 12.7192.401 Rev C.
- 5) No dwelling shall be occupied until space has been laid out within the site in accordance with the approved plans for cars to be parked, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking shall be retained in this form at all times. It shall not be used for any other purpose other than parking of vehicles related to the use of the development.
- 6) No development shall take place until full 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 operation and shall be retained in the approved form at all times.
- 7) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with the approved documents.
- 8) 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. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).
- 9) 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; implementation programme].
- 10) 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 occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
 - 11) No development shall commence until a flood risk assessment and management and maintenance plan has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be carried out prior to the substantial completion of the development and thereafter retained in the approved form.
 - 12) Prior to the commencement of development (including demolition of Key West) the existing dwelling shall be the subject of a full photographic survey. The survey shall be submitted to the Local Planning Authority for approval within 21 days of its completion.
 - 13) No development shall take place, including any works of 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:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii) details of the hours of work for construction/demolition works, ancillary operations and vehicle movements.