



Appeal Decision

Hearing conducted on 2 April 2009

Site visit made on 2 April 2009

by **Mr D Lavender MRTPI**

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

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Decision date:
13 May 2009

Appeal Ref: APP/J1535/A/08/2092369

Charlesworth, 118 High Road, Chigwell, 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 by Mr L C Earl against the decision of Epping Forest District Council.
- The application Ref EPF/0679/08, dated 31 March 2008, was refused by notice dated 2 July 2008.
- The development proposed is the demolition of an existing dwelling and the construction of 10x2 bedroom flats and 2x3 bedroom penthouses, including associated car parking, access and landscaping.

Decision: I dismiss the appeal.

Reasons:

Procedural matters

1. As agreed at the Hearing, I have considered the proposal on the basis of the following plans listed in the Council's decision notice or as agreed by the parties, all having been submitted originally with the planning application:
 - JTS/5636/01 - Site location plan scale 1:1250
 - JTS/5636/02 - Site layout drawing overlaid on topographical survey, scale 1:200
 - 07.6395.01 - Site layout, scale 1:200
 - 07.6395.02 - Floor plans, basement and ground floor, scale 1:100
 - 07.6395.03 - Floor plans, first and second floor, scale 1:100
 - 07.6395.04 - Elevations, front and side, scale 1:100
 - 07.6395.05 - Elevations, side and rear, scale 1:100
 - 07.6395.06 - Coloured front elevation and site plan, scale 1:100 and 1:200
2. Other drawings, of which the pedigree is less certain, including JTS/5636/PRO6 (visibility splays), C7238-02 (root protection areas) and 07.6395.sk10, sk11 and sk12 (sketch perspectives) I have taken as providing additional illustrative background information only, and they have not influenced my decision. A further suite of drawings was submitted with the Appellant's evidence, with a view to addressing any concerns that I might have with regard to fenestration. I refer to those in my consideration of the second main issue.

General background and main issues

3. Outline planning permission was granted on appeal in 2008 for the redevelopment of the site by the erection of 10 flats. The now proposed increase in the number of flats arises from the intended formation of two

additional "penthouse" units at roof level. Although the Council's planning officers raised no objection to the scheme, the Council refused permission on the basis of design criticisms (enlarged upon in its evidence to the Inquiry) and concern that the neighbouring property to the south, 120 High Road Chigwell, would suffer unacceptable loss of privacy.

4. The main issues for me to consider in this appeal are thus the effect of the proposed development on the character and appearance of the area, and the implications for the occupiers of 120 High Road in terms of privacy.

Issue 1: Character and appearance:

5. I saw that housing development along this particular part of Chigwell High Road is almost exclusively single family dwellings, but of widely varied age, style and size. Despite this eclectic mix, the individual buildings are generally well-proportioned and the architecture is well disciplined. The setting - populated by large numbers of mature trees, many of which are protected by Tree Preservation Order, and bordering both the town centre (to the north) and a golf course (to the east) - further creates an attractive environment of superior quality to that found in many other areas of suburban development.
6. In accepting that flats would not be out of character in these surroundings the previous Inspector stated, among other things, that she was conscious that the domestic scale of the development to the west and south should be respected and opined that it would be possible to design a building using traditional proportions, materials and detailing, so that it would blend easily with its setting. I find no reason to question that assessment, and observe only that it neither requires nor implies that the only acceptable architectural approach would be one that followed slavishly the illustrative elevation that accompanied the former outline application. Rather, it supports the high standards of urban and building design sought by Government Guidance in Planning Policy Statement 1 "*Delivering Sustainable Development*" (PPS1) and Epping Forest District Local Plan policies DBE1(i) and (ii) and alterations policy CP2(iv), as well as promoting local distinctiveness.
7. Indeed, while the proportions and ornate detailing shown in the former outline application elevation drawing depicted an Edwardian-style building of some considerable elegance, that drawing glossed over how a ramped vehicular entrance down to the proposed basement parking area could be incorporated into the front elevation. It included hints of roof level dormer windows at the northern end, while also suggesting a roof pitch of such steepness that not only could an additional floor have been accommodated within at least part of the roof space, it would also almost inevitably have masked what would, in practice, have been a mainly flat-roofed building. Although, as the Council points out, the now proposed maximum ridge height would be about 1.5 m higher than that in the outline application drawing, the same general eaves line would be maintained and the pitch would be much reduced. Combined with greater modulation of height where the plan form requires the roof to span less building depth, the result would be a shorter main ridge length than before, with the slope of the roof receding from the eye more quickly. The extent of flat roof would also, in all likelihood, thereby be minimised. Moreover, the greater proportion of roof to wall, especially where the eaves would be dropped lower on the front elevation to wrap around a proposed dormer window, would

produce the appearance of a building solidly compressed beneath its superstructure and, in conjunction with the projecting plinth proposed at ground level, one that would also appear very firmly rooted to the ground. All of these factors would, I consider, belie the overall height of the building when viewed from the road and would enable it to blend as comfortably into its surroundings as one of the height shown at outline stage.

8. However, the opposite applies in my estimation to the two proposed projecting wings to the front. Although these would have lower ridges than the main roof, their eaves would be considerably higher, thereby more than reversing the proportion of roof to wall that would characterise the rest of the building. Not only would the additional area of vertical brickwork between first floor window heads and eaves give the impression of much greater height to the forwardmost part of the building, the front wings would also, in consequence, look ill-proportioned. The vertical height of the gabled northern wing, in particular, would not rest comfortably with the single storey buildings bordering this side of the site and would, I saw, also be unduly strident in the view from the railway bridge diagonally opposite. Although the scheme is advanced on the basis of similarities with buildings constructed in the "Arts and Crafts" style, I see no such relationship in these most prominent sections of the proposed building nor in the more general detailing of the building as a whole, which displays neither the craftsmanship nor bucolic simplicity of that particular genre.
9. The latter design criticism applies particularly to the proposed excessive number and unsymmetrical positioning of roof-lights (which are not a feature of the area) and dormers (which, in small numbers are). These, I consider, derive from an excess of focus on function rather than form and, to my mind, would result in an unattractive and unacceptably cluttered appearance. This would be in particularly sharp contrast to the pleasantly designed roof-level fenestration of the Listed Building opposite and the flat-roofed design of the dwelling to the south of the appeal site.
10. While the general height, width and depth of the building is, with the modulation proposed, acceptable, the height of the front wings and the detailing of the whole, especially at roof level, would thus be representative both of unattractive building design and inappropriate urban design. It follows that the scheme before me would, in my judgement, be harmful to the character and appearance of the area.

Issue 2- Privacy

11. The proposed building would, at its closest, stand some 7 m from the southern boundary of the site, whereas the existing building is some 17 m from this boundary. While the existing house only has secondary ground floor windows in its southern flank, the proposed development would have six windows of concern to the Council and the neighbour on this side. These would be at first and second floor level, and would provide the main outlook from various bedroom, kitchen and bathroom areas. The neighbouring property has an elongated flank wall set about 3 m from the boundary in which there is a first floor level bathroom window facing the appeal site. The potential for overlooking between the two properties thus exists, but would be of relatively limited impact because of the size and function of this neighbour's window. To

the extent that it could be avoided altogether by fitting curtaining, a blind or obscured glass to the neighbour's window (which I acknowledge the neighbour would not necessarily wish), I do not regard the juxtaposition of windows on either side of the boundary to be a public interest of such compelling importance as to render the proposed development unacceptable. In any event, there are existing laurel and holly bushes providing a dense intervening screen. These could either be retained or replanted and supplemented as part of a landscaping scheme for the site (and required by planning condition), but the Appellant has also suggested some alterations to the proposed fenestration which, with some further adjustment, could avoid the risk of at least casual overlooking altogether, whether plantings were in place or not. The Council advised that consequential alterations to the elevations would be sufficiently material to warrant fresh publicity and consultation processes, a stance with which I do not disagree, so I do not substitute the revised plans illustrating the appellant's intentions for those submitted with the application. Nevertheless, in the circumstances of this particular case, the range of palliative options available to all parties is such that privacy does not amount to an insurmountable obstacle to the progress of the scheme, or one where conflict with LP policy DBE9 would be unavoidable.

Other matters and overall conclusions:

12. I have considered all other matters raised in the representations. In particular, I understand that the property does not fall within an identified flood risk area and consider that surface water discharge from the site to lower ground on the opposite side of High Road could be adequately controlled by a suitably designed sustainable urban drainage system. As with landscaping, that is a matter which planning conditions would be capable of addressing. Excavation for the proposed entrance ramp to the basement parking area might, I accept, damage the roots of a neighbouring oak tree, but that is by no means certain. Like the nearby protected willow tree (the loss of which was accepted by the previous Inspector), there is ample scope elsewhere within the site for both replacement and additional tree planting. I am in no doubt that the public interest would be better served by the more efficient and effective use of the site for housing (with adequate parking) than by ensuring, at all costs, the protection of one damaged oak and a willow that has yet to reach full maturity. Similar and other points, including those relating to policy issues relating to dwelling mix, density and targets for previously developed land, were raised in the 2008 appeal and, having reconsidered them in the light of the detailed plans now before me, I find no reason to depart from the previous Inspector's commentary on them.
13. In sum, on the balance of the arguments before me, I am content that up to 12 flats could be suitably accommodated on the site without that number being manifest in High Road above eaves level, where more than a very small number of carefully positioned and well designed dormer windows would I consider, be inappropriate. However, from my findings on the first main issue, it is apparent that the design of this particular proposal falls short of the high standards that National planning Guidance and Local planning policies aspire to. Nothing that I have seen or heard in this case persuades me to any different conclusion, and I therefore dismiss the appeal.

D Lavender