

Report to Area Plans Sub-Committee

Date of meeting: West – 20 November 2013

Subject: Probity in Planning – Appeal Decisions, 1 April 2013 to 30 September 2013

**Officer contact for further information: Nigel Richardson (01992 564110).
Democratic Services: Jackie Leither (01992 564756)**

Recommendation:

That the Planning Appeal Decisions be noted.

Report Detail:

Background

1. (Director of Planning & Economic Development) In compliance with the recommendation of the District Auditor, this report advises the decision-making committees of the results of all successful allowed appeals (i.e. particularly those refused by committee contrary to officer recommendation). The purpose is to inform the committee of the consequences of their decisions in this respect and, in cases where the refusal is found to be unsupportable on planning grounds, an award of costs may be made against the Council.

2. In recent years the Council performance has been 18% in 2003/04, 29% in 2004/05, 22% in 2005/06, 30% in 2006/07, 29% in 2007/08, 40.3% for 2008/09, 30.9% in 2009/10, 36.6% in 2010/11, 28.8% in 2011/12 and 27.7% in 2012/13.

3. Since 2011/12, there have been two local indicators, one of which measures all planning application type appeals as a result of committee reversals of officer recommendations (KPI 55) and the other which measures the performance of officer recommendations and delegated decisions (KPI 54).

Performance

4. Over the six-month period between 1 April 2013 and 30 September 2013, the Council received 37 decisions on appeals (35 of which were planning related appeals, the other 2 were enforcement related).

5. KPI 54 and 55 measure planning application decisions and in total, out of this 35, 14 were allowed (40%). Broken down further, KPI 54 performance was 4 out of 20 allowed (20%) and KPI 55 performance was 10 out of 15 (66.67%).

Planning Appeals

6. Out of the 15 planning appeals that arose from decisions of the committees to refuse contrary to the recommendation put to them by officers during the 6-month period, the Council was not successful in sustaining the committee's objection in the following 10 cases:

Area Committee South

EPF/1785/12	Demolition of existing nursing home and the erection of 14 apartments and associated car parking spaces, amenity space, bin and cycle stores, foul and surface water drainage and landscaping.	152 - 154 Daneley Court Nursing Home Queens Road Buckhurst Hill
EPF/0071/12	Single storey rear extension with flat roof	6 Chigwell Rise Chigwell
EPF/0160/12	Part change of use on the ground floor from C3 Residential to D1 in order to extend the current dental surgery space	6 Chigwell Rise Chigwell
EPF/0161/12	Removal of condition 8 of planning permission EPF/0594/10 to allow D1 use without employee living on site.	6 Chigwell Rise Chigwell
EPF/0931/12	Demolition of the existing house and garage. Construction of a block of five one-bedroom flats; new vehicle access cross-overs and external landscaping.	182 Roding Road Loughton

Area Committee East

EPF/1714/12	Single storey summer house and deck (revised application to incorporate pitched roof and alterations to elevations).	Orchard Villa Norton Heath High Ongar
EPF/2192/12	Erection of fencing (1.8m in height) and change of use of land, currently in use for parking of residents vehicles, to residential curtilage.	11A Lancaster Road North Weald Bassett
EPF/0834/12	Erection of 50kW microgeneration wind turbine with a tower height of 25m and blade diameter of 19m.	New House Farm Vicarage Lane North Weald Bassett
EPF/2137/12	Minor material amendment to EPF/1333/09 (Erection of 4 bedroom house) to include alterations to fenestration and the addition of roof lights to form a second floor of accommodation.	Threeways House Epping Road Ongar
EPF/0856/12	Retrospective application for the change of use from barn to Car Body Repairs shop.	Cold Hall Farm Kiln Road Stanford Rivers

7. Therefore, the committees are urged to continue to heed the advice that if they are considering setting aside the officer's recommendation it should only be in cases where members are certain they are acting in the wider public interest and where the committee officer can give a good indication of some success at defending the decision. As this is now highlighted as a separate performance target (KPI 55) it therefore potentially comes under more scrutiny.

8. Out of 2 enforcement notice appeals decided, 1 was allowed and 1 was dismissed. These are as follows:

Allowed:

ENF/0196/12	Without planning permission the change of use from a barn to a car body repair shop	Cold Hall Farm Kiln Road North Weald
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Dismissed

ENF/0272/12

Formation of a balcony

21 Newhall Court
Waltham Abbey

Costs

9. During this period, there was one successful finalised award of costs made against the Council. Circular 03/2009 Costs Awarded in Appeals and Other Planning Proceedings (the "Costs Circular") advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Costs therefore are rarely awarded against the appellant. The costs were as follows:-

- *London Lodge West, Copped Hall Estate, Epping*: The appeal for cost was successful against the Council's withdrawal of an enforcement notice and listed building enforcement notice after taking legal advice regarding the wording of the requirements for compliance with the notices, several months after the appeal was made. New differently worded notices were re-issued, but the Planning Inspector considered this was implicit in this that it was not expedient to serve the first notices in the form that they were and this amounted to unreasonable behaviour and caused the appellant to incur unnecessary expense in appealing. The cost amounted to £1,376.00

10. Members attention is brought to the fact recent appeal changes allows Planning Inspectors to award costs against a party that has behaved unreasonably even if neither the Council or the appellant has applied for costs.

Conclusions

11. Whilst performance in defending appeals has improved during the last couple of years, Members are reminded that in refusing planning permission there needs to be justified reasons that in each case must be relevant, necessary, but also sound and defensible so as to avoid paying costs. This is more important now than ever given a Planning Inspector or the Secretary of State can even if neither side has made an application for them. Whilst there is clearly pressure on Members to refuse in cases where there are objections from local residents, these views (and only when they are related to the planning issues of the case) are one of a number of the relevant issues to balance out in order to understand the merits of the particular development being applied for.

12. Finally, at a previous request from Planning Services Scrutiny Standing Panel, appended to this report are the 15 appeal decision letters, which are the result of Members reversing the planning officer's recommendation (and therefore refusing planning permission) at planning committees, 10 of which were allowed and granted planning permission.

13. A full list of appeal decisions over this six month period appears below.

Appeal Decisions April 2013 to September 2013

Allowed With Conditions

Buckhurst Hill

1	EPF/1785/12	Demolition of existing nursing home and the erection of 14 apartments and associated car parking spaces, amenity space, bin and cycle stores,	152 - 154 Daneley Court Nursing Home Queens Road
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foul and surface water drainage and landscaping.

Chigwell

- | | | | |
|---|-------------|---|-----------------|
| 2 | EPF/0161/12 | Removal of condition 8 of planning permission EPF/0594/10 to allow D1 use without employee living on site. | 6 Chigwell Rise |
| 3 | EPF/0071/12 | Single storey rear extension with flat roof. | 6 Chigwell Rise |
| 4 | EPF/0160/12 | Part change of use on the ground floor from C3 Residential to D1 in order to extend the current dental surgery space. | 6 Chigwell Rise |

High Ongar

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|---|-------------|--|-------------------------------|
| 5 | EPF/1714/12 | Single storey summer house and deck (revised application to incorporate pitched roof and alterations to elevations). | Orchard Villa
Norton Heath |
|---|-------------|--|-------------------------------|

Loughton

- | | | | |
|---|-------------|--|-----------------|
| 6 | EPF/0931/12 | Demolition of the existing house and garage. Construction of a block of five one-bedroom flats; new vehicle access cross-overs and external landscaping. | 182 Roding Road |
| 7 | EPF/0978/12 | Erection of new two storey dwelling adjoining no.2 Nevill Way, including widening of existing vehicular crossover at the front. | 2 Nevill Way |

North Weald Bassett

- | | | | |
|---|-------------|---|---------------------------------|
| 8 | EPF/2192/12 | Erection of fencing (1.8m in height) and change of use of land, currently in use for parking of residents vehicles, to residential curtilage. | 11A Lancaster Road |
| 9 | EPF/0834/12 | Erection of 50kW microgeneration wind turbine with a tower height of 25m and blade diameter of 19m. | New House Farm
Vicarage Lane |

Ongar

- | | | | |
|----|-------------|---|--------------------------------|
| 10 | EPF/2137/12 | Minor material amendment to EPF/1333/09 (Erection of 4 bedroom house) to include alterations to fenestration and the addition of roof lights to form a second floor of accommodation. | Threeways House
Epping Road |
|----|-------------|---|--------------------------------|

Roydon

- | | | | |
|----|-------------|--|--|
| 11 | EPF/2057/12 | Removal of condition 6 'Personal user' of planning permission EPF/1458/07. (Erection of 4 x loose boxes with tack room and hay storage, wooden construction fixed to concrete base inside (field adjacent to Friars Lodge) | Field adjacent to
Friars Lodge
Tylers Road |
|----|-------------|--|--|

Stanford Rivers

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|----|-------------|---|-----------------------------|
| 12 | EPF/0856/12 | Retrospective application for the change of use from barn to Car Body Repairs shop. | Cold Hall Farm
Kiln Road |
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Allowed without conditions

Loughton

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|----|-------------|--|---|
| 13 | EPF/0003/13 | Provision of a) one internally illuminated individual letter sign at fascia level (Sign 1) and one non-illuminated double sided pole or post sign at front of forecourt (Sign 2) (Revised application) | Topps Tiles
(part of Browns of
Loughton)
Unit 2 & 3 Station Road |
|----|-------------|--|---|

Matching

14	EPF/2136/12	Change of use of paddock area to residential curtilage and erection of a two storey detached house and detached garage. Formation of new road access (Revised Application)	Pond House Matching Green
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Dismissed

Buckhurst Hill

15	EPF/0149/13	Proposed side/rear extension and loft conversion.	134 Forest Edge
16	EPF/2446/12	Two storey side and rear extension (alternative scheme to EPF/2447/12).	82 Princes Road
17	EPF/2447/12	Proposed two storey side and rear extension (alternative scheme to EPF/2446/12)	82 Princes Road

Chigwell

18	EPF/0279/13	Retrospective planning application to retain loft conversion involving an increase to the ridge of the roof, three front dormers and rear dormer including proposed reduction in size of rear dormer.	225 Lambourne Road
19	EPF/0435/13	First floor side/part two storey rear extension and part single storey rear extension. (Revised application)	2 Chigwell Park
20	EPF/2466/12	Livery facility comprising menage, loose boxes, associated tack room, hay store, utility room and car parking spaces	Land off Millers Lane accessed between Billingsbourne Barn and Billingsbourne Farm
21	EPF/0516/12	Erection of replacement dwelling.	48 Stradbroke Drive

Epping

22	EPF/1125/12	Demolition of existing garage and store shed and construction of four storey side extension to provide additional bed space to existing care home.	Treetops Care Home 23-25 Station Road
23	EPF/0609/13	Loft conversion, double storey rear and ground floor side extensions.(Revised application)	60 Bower Hill

High Ongar

24	EPF/1746/12	Change of use to residential, demolition of existing commercial buildings and erection of 2 new detached dwellings, with greywater recycling pond and associated paddock areas.	L W & G L Pavitt 164 Nine Ashes Road Nine Ashes
25	EPF/2416/12	Two storey side extension.	74 Mill Lane

Loughton

26	EPF/1755/12	Proposed conversion of storage garages to new Yoga and Pilates Studio including ground and first floor extensions and demolition of outbuilding.	Lioncare Ltd 186 Forest Road
27	EPF/1899/12	First floor extension above garage.	63 The Lindens

Nazeing

28	EPF/0469/13	Extension to first floor on both sides and loft conversion.	Kifri Middle Street
Sheering			
29	EPF/0574/13	Replacement carport.	Alice Springs Sawbridgeworth Road
30	EPF/2392/12	Partial demolition of existing bungalow and erection of new detached dwelling.	3 Crown Close
31	EPF/1834/12	Proposed new 3 bedroom detached, two storey house with parking and proposed new garden area. (Resubmitted application)	The Orchard Queens Head Yard The Street
Theydon Bois			
32	EPF/1245/12	Erection of sliding gates across vehicular access at front of site, removal of section of infected hedge and planting of replacement hedge.	1 Ivy Cottage Mews Theydon Park Road
Waltham Abbey			
33	EPF/0278/13	Two-storey front extension and rear balcony area	29 Woodgreen Road
34	EPF/1240/12	Retention of metal railings on extension roof for balcony on rear of building.	21 Newhall Court
35	EPF/0789/13	Two storey side and part two storey/part single storey rear extension.	75 Honey Lane
Enforcement Appeal: Allowed with Conditions			
1	ENF/0196/12	Without planning permission the change of use from a barn to a car body repair shop	Cold Hall Farm Kiln Road North Weald
Enforcement Appeal Dismissed			
2	ENF/0272/12	Formation of a balcony	21 Newhall Court Waltham Abbey

Appeal Decision

Site visit made on 26 February 2013

by **D J Board BSc (Hons) MA MRTPI**

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

Decision date: 28 June 2013

Appeal Ref: APP/J1535/A/12/2185132
182 Roding Road, Loughton, Essex, IG10 3BS

- 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 Vijay Patel against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0931/12, dated 10 May 2012, was refused by notice dated 27 June 2012.
 - The development proposed is the demolition of the existing house and garage. Construction of a block of five one-bedroom flats; new vehicle access cross-over and external landscaping.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 7 June 2013.

Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing house and garage. Construction of a block of five one-bedroom flats; new vehicle access cross-over and external landscaping at 182 Roding Road, Loughton, Essex, IG10 3BS in accordance with the terms of the application, Ref PL/EPF/0931/12, dated 10 May 2012 subject to the conditions in Annex A.

Procedural Matter

2. The application has been amended since it was submitted with the deletion of the second vehicular cross-over to the rear of the site from the proposals. As such my description of the development reflects this and is amended to refer to only one vehicular cross-over.

Main Issue

3. Whether the proposed development would generate on street parking such that it would be detrimental to the living conditions of nearby residents.

Reasons

4. Policy DBE6 of the *Epping Forest District Local Plan (LP)* requires parking for new development to be conveniently situated for intended users, adequately lit and located such that parked cars do not visually dominate the street scene. Policy ST6 states that the Council expect proposals to provide on site parking in accordance with parking standards. The LP policy is supported by supplementary planning guidance, *Parking Standards Design and Good Practice (SPG)*, that set parking standards for new development. In this case the

standard requires 5 parking spaces. Four spaces are proposed but the standards allow for a reduction in urban areas with access to public transport, walking and cycling links that provide access to education, food shopping, healthcare and employment.

5. Loughton Station is located less than 1km from the appeal site and has an access from Roding Road. As such it would be easily accessed on foot or by bicycle. The other access to the station faces a large supermarket and beyond this are the facilities of Loughton High Street itself. There are bus stops on Oakwood Road, Valley Hill and Roding Road, all within walking distance of the site, the Council officer's report confirms that bus stops at Valley Hill are 250m away. The routes along Roding Road to the station and bus stops have footpaths and street lighting, making them conducive to walking in the day and at night.
6. Within walking or cycling distance of the appeal site, at the junction of Roding Road and Oakwood Road, I noted a number of local facilities including a Chemist, Dry Cleaners, Takeaway, Hairdresser, Fishmonger, Coffee Shop, Off Licence, Florist, Estate Agents and Newsagents. In addition the site is close to a recreation area and other community facilities. The closest schools would be an infant and junior school located at the end of Southern Road (a side road from Roding Road) and a high school located north of the station. Both would be accessible by means other than car.
7. I acknowledge that the occupiers of the units may undertake trips for larger amounts of shopping by car but the location of the proposal and the alternatives available lead me to conclude that occupiers of the proposed development could access day to day services for shopping and education without the need to use a car. The close proximity of and access to the underground station, and consequent onward connection to the mainline railway, lead me to the conclusion that employment could be accessed without reliance on a car. The Council officer's report notes that *'...the site is found to be in a sustainable location within an urban area'*.
8. Whilst the Council acknowledge that the appeal site is in an urban area it argues that levels of car ownership for the development would be likely to be high. It considers this is the case as residential development is the origin point for a trip and the convenience of Loughton and its services would encourage use of the car. The location of the site in an urban area can be considered as either a positive or negative attribute, not both as the Council suggest. It is evident that for the application of policy the site is in an urban area and therefore the benefits of this have been accorded weight in consideration of the proposal before me.
9. The Council are concerned that by allowing a car parking provision below standard that any unmet parking requirement would have to be met on street. Policy DBE6 refers to the convenience of parking for users and the need for parking not to visually dominate the street scene. The building would be located in a corner position at the end of Roding Road. The majority of existing houses along the road have created on site parking for cars and there are no parking restrictions along Roding Road in the section close to the appeal site or on the surrounding roads. Beyond the site Roding Road terminates at a recreation area and there is a lay by area used for private parking. At the time of my visit there were a number of places to park on street although I accept that at times considerable demands may be placed on parking at this end of

the road when the immediately adjoining area is in use for sporting events. On street parking is not unusual in urban and suburban locations and I consider that parking for one of the residential units, should it be required, could be accommodated within a reasonable distance of the site. Indeed the Council officer's report sets out that '*...there certainly appears to be on-street capacity for one additional car to park within a convenient distance of the site*'.

10. Given the above I conclude that the proposal would not generate on street parking such that it would be detrimental to the living conditions of nearby residents and consequently would not be in conflict with policies DBE6, ST6 and the associated SPG of the LP.

Other Matters

11. The Council are concerned that the second floor flat could be subdivided, creating a two bed unit. However, mindful of the site's access to public transport and local services, I am satisfied that a property with 2 bedrooms would be unlikely to result in an increase in parking such that safety or other problems would be caused.
12. Local residents raise a number of other matters including, the absence of disabled parking for 'lifetime homes'; visitor parking; loss of privacy and light; size of the proposal and lack of communal space. With regard to disabled and visitor parking the SPG does not set a minimum standard for provision for residential development of the scale proposed and the Council Officer's report notes that '*...local plan policy does not require such relatively small scale developments to achieve lifetime home standards*'. It would be possible for visitors to the development to use public transport given its location. The dormer windows and roof lights would be positioned such that they would not cause excessive overlooking. A condition is also included for obscure glazing of windows in the elevation facing toward the neighbouring property. The Council indicate that the communal garden area for the flats would be identical to that previously approved and policy requires garden areas to '*...be at the rear of...flats... easily accessible... of a size and shape and nature which enables reasonable use...*' In this regard the garden area proposed would be acceptable and would provide adequate space for everyday activities such as hanging out washing, relaxation and play.

Conditions

13. 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 Circular 11/95. A number of the Council's conditions refer to schemes approved under other references and I have amended these accordingly.
14. In the interests of the character and appearance of the area conditions would be needed to control the external appearance of the building and hard and soft landscaping. A condition concerning obscure glazed windows in the flank elevation is necessary to protect the privacy of existing occupiers; I have amended it to refer precisely to the plan that shows the relevant windows. To ensure a satisfactory form of development details of refuse storage, levels and any additional external lighting are also necessary.
15. To ensure a satisfactory form of development it is both reasonable and necessary to require the parking proposed to be provided prior to occupation of the development. The submitted remedial strategies for contamination require

a condition to ensure their implementation as does the construction method statement. The Council's concern regarding hours of construction/delivery is addressed in the construction management statement. As such a separate condition on this matter is not necessary.

Conclusion

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

D J Board

INSPECTOR

Annex A

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: 14420/P3/Location Plan; 14420/SP3-200 Rev E; 14420/P3/100 Rev C; 14420/P3/101 Rev B; 14420/P3/102 Rev B; 14420/P3/103 Rev B; 14420/P3/104 Rev C; 14420/P3/105 Rev C; 14420/P3/106 Rev B; 14420/P3/107 Rev B; 14420/P3/108 Rev C; 14420/P3/109 Rev B; 14420/P3/110 Rev B; 14420/P3/111 Rev A; 14420/P3/112 Rev B; 14420/P3/113 Rev A.
- 3) 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.
- 4) 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; levels; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas and hard surfacing materials.
- 5) The plans and particulars submitted in accordance with condition 4 above shall include details of the size, species and positions or density of all trees to be planted, and the proposed time of planting.
- 6) 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.
- 7) 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, unless the local planning authority gives written approval to any variation.
- 8) Before the first occupation of the building hereby permitted the windows in the flank elevation annotated on plan 14420/P3/107 Rev B shall be fitted with obscured glass and shall be permanently retained in that condition.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No 14420/SP3-200 Rev E for 4 cars to be parked. Thereafter the parking area shall be retained in this form at all times.
- 10) The development hereby permitted shall be carried out in accordance with the submitted remedial strategy ref 12/18895-6 and associated

document ref 07/13505. The site shall be remediated in accordance with the measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 11) The development hereby permitted shall be carried out in accordance with the Construction Method Statement and Demolition Method statement dated 10 May 2012.
- 12) No development shall take place until details of a scheme for the storage of refuse have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) No development shall take place until details of ground and floor 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.
- 14) No external lighting other than that detailed on drawing 14420/SP3-200 Rev E shall be provided at the appeal site without the prior written permission of the Local Planning Authority.

Appeal Decision

Site visit made on 24 May 2013

by **David Prentis BA BPI MRTPI**

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

Decision date: 30 May 2013

Appeal Ref: APP/J1535/D/13/2194038

Orchard Villa, Norton Heath, Blackmore, Essex CM4 0LQ

- 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 Alan Barclay against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/1714/12, dated 11 September 2012, was refused by notice dated 19 December 2012.
 - The development proposed is: *Single storey summer house and deck (revised application to incorporate pitched roof and alterations to elevations).*
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Decision

1. The appeal is allowed and planning permission is granted for single storey summer house and deck (revised application to incorporate pitched roof and alterations to elevations) at Orchard Villa, Norton Heath, Blackmore, Essex CM4 0LQ in accordance with the terms of the application, Ref PL/EPF/1714/12, dated 11 September 2012, and the plans submitted with it, subject to the following condition:

The development hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed from the site within 6 months of the date of this decision unless the following requirement has been met by that time:

The summer house shall be altered to comply with the details shown on plan AB/RPA/12/001, the alterations to include the addition of a pitched roof with shingle covering and the use of feather edged weatherboarding and timber window frames with colours and finishes as stated on the plan.

Preliminary matters

2. In my decision I have adopted the description of development used by the Council in the decision notice because this is a more complete description than that set out in the application form.
3. A summer house and decking had been constructed at the time of my visit. The appellants propose to make amendments to the design and finishes of the structure. These alterations would include the reduction in the length of the existing flat roof, part of which would be replaced by an open pergola. The remaining section of the roof would be pitched with a shingle covering. The walls would be clad in weatherboarding. The proposed alterations form part of the scheme which is before me and I have taken them into account in my decision.

Main issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of Bright's Cottage, with particular regard to any effects on natural light, visual impact, privacy, noise and disturbance and light pollution.

Reasons

5. Orchard Villa and Bright's Cottage are two storey detached properties within the rural hamlet of Norton Heath. Both properties are Grade II listed buildings dating from the 18th century. The garden of Orchard Villa lies to the front and side of the property. The layout of the plots is such that the boundary of the application site passes close to the south east elevation of Bright's Cottage¹. This elevation contains windows and glazed doors to a living room at ground floor level, with two bedroom windows at first floor level. There is a tall hedge along the boundary.
6. In assessing the effect of the appeal scheme on daylight and sunlight I have disregarded the hedge because future occupiers may choose to reduce its height. The siting of the summer house is such that it stands partly in front of the right hand ground floor window of Bright's Cottage, as seen from the garden of Orchard Villa. Although the summer house is close to the boundary, it is single storey and the affected window would still receive a reasonable amount of light from above the structure. The proposed roof would have a shallow pitch and would have little impact on the amount of daylight reaching the affected window. The other openings at ground floor level would not be significantly affected in terms of daylight. At times, the south east elevation of Bright's Cottage would be partially shadowed by the appeal structure. Nevertheless, this elevation would continue to receive ample sunlight from the south during the middle of the day. Overall, I do not consider that the impact on natural light would have a materially harmful effect on living conditions.
7. In assessing the visual impact of the proposal I have taken the hedge into account because it is a substantial and well established feature. I have also allowed for the possibility that future occupiers might reduce its height to some extent. Even if that were to happen, in views from the ground floor of Bright's Cottage much of the summer house would be screened by the hedge. As seen from the first floor the proposed roof would be a prominent feature. However, as the roof would slope up away from the boundary at a low pitch, I do not think that it would result in an unduly overbearing or enclosing effect.
8. The boundary hedge would preclude any direct views from the summer house or deck towards the living room windows of Bright's Cottage. The garden of Orchard Villa is overlooked, at close quarters, by the first floor windows of Bright's Cottage. This close relationship results from the plot layout and would not be affected by the appeal proposal.
9. The occupier of Bright's Cottage is concerned about the location of the decking. This is understandable, given the closeness of the decking to the glazed doors to the living room. During good weather, when the glazed doors may be left open, it seems likely that the conversations of people sitting out on the decking could be heard by someone in the living room of Bright's Cottage. On the other hand, the decking is raised only a small amount above ground level and the appellants could make use of this part of the garden as a sitting out area

¹ I use the term south east for convenience. The actual orientation is between south and south east.

with or without the appeal scheme. Indeed, as the decking is in a sheltered south-facing position it seems quite likely that this part of the garden would be so used. In any residential area occupiers will be aware of the presence of their neighbours to some extent and there is no reason to think that normal residential use of a domestic garden would be harmful in terms of noise and disturbance.

10. The Council and the neighbouring occupier are also concerned about light pollution. However, this concern does not seem to me to be a sufficiently direct consequence of the appeal scheme to be a significant consideration in this case. The appellant could choose to provide external lighting in the garden whether or not the appeal is allowed.
11. To conclude on the main issue, I do not consider that the appeal proposal would result in material harm to the living conditions of the occupiers of Bright's Cottage. It would not conflict with Policy DBE9 of the Epping Forest District Local Plan 1998 which states that development should not result in an excessive loss of amenity for neighbouring properties having regard to visual impact, overlooking, daylight/sunlight and noise or other disturbance.

Other matters

12. The site is within the Green Belt. However, the Council has not identified any harm in relation to Green Belt issues. Having regard to the small scale of the building, its ancillary function and its location within a well-defined residential curtilage I see no reason to disagree.
13. The Council raises no objection in relation to the effect of the proposal on the settings of the two listed buildings, subject to the alterations described above being secured by way of a condition. Nor is any objection made in relation to any effect on the character and appearance of the area. I agree with the Council's assessment on these matters. I also agree that it would be necessary to impose a condition requiring the alterations to be carried out because the design and materials of the existing structure are unsympathetic to the listed buildings and harmful to their settings.
14. The neighbouring occupier suggests that the proposal would create a fire risk. However, there is no evidence in support of this suggestion and I attach little weight to it.
15. I have considered all other matters raised but find nothing to alter my conclusions on the main issue. I have considered the conditions suggested by the Council in the light of Circular 11/95 *The use of conditions in planning permissions*. I agree with the substance of the Council's suggestions although I have combined the suggested conditions and adjusted the detailed wording to make the condition more precise and enforceable. The condition is necessary to ensure that the alterations are carried out as shown on the plans in the interests of preserving the settings of the listed buildings.
16. For the reasons given above, the appeal should be allowed.

David Prentis

Inspector

Appeal Decisions

Site visit made on 30 April 2013

by **L Graham BSc MA MRTPI**

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

Decision date: 10 June 2013

Appeal A Ref: APP/J1535/A/12/2185873

6 Chigwell Rise, Chigwell IG7 6AB

- 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 A B Parmer against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0071/12, dated 5 January 2012, was refused by notice dated 25 April 2012.
 - The development proposed is a single storey extension with a flat roof.
-

Appeal B Ref: APP/J1535/A/12/2185876

6 Chigwell Rise, Chigwell IG7 6AB

- 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 A B Parmer against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0160/12, dated 12 January 2012, was refused by notice dated 25 April 2012.
 - The development proposed is a part change of use on the ground floor from C3 Residential to D1 in order to extend the current dental surgery space.
-

Appeal C Ref: APP/J1535/A/12/2185878

6 Chigwell Rise, Chigwell IG7 6AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr A B Parmer against the decision of Epping Forest district Council.
 - The application Ref PL/EPF/0161/12, dated 12 January 2012, was refused by notice dated 25 April 2012.
 - The application sought planning permission for change of use of part of existing dwelling house to form 'dental surgery' (use class D1) without complying with a condition attached to planning permission Ref PL/EPF/0594/10, dated 22 June 2010.
 - The condition in dispute is No 8 which states that: The dental surgery hereby approved shall only operate where at least one full time member of the surgery staff occupies the residential part of 6 Chigwell Rise as their main residence. The use shall cease if no full time member of the surgery staff occupies 6 Chigwell Rise as their main residence.
 - The reasons given for the condition are: To safeguard the character and amenities of the locality and to minimise the demand for on street parking generated by the use of the site as a whole.
-

Decision Appeal A

1. The appeal is allowed and planning permission is granted for a single storey extension with a flat roof at 6 Chigwell Rise, Chigwell IG7 6AB in accordance with the terms of the application, Ref PL/EPF/0071/12, dated 5 January 2012, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
 - 3) The extension hereby approved shall be used only as an office in association with the dental surgery and shall not be used as a consulting room.
 - 4) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule ESS-150, ESS-900, ESS901, ESS-902, ESS-903, ESS-904, ESS-800, ESS-801, ESS-802, ESS-803, ESS-804, ESS-810.

Decision Appeal B

2. The appeal is allowed and planning permission is granted for part change of use on the ground floor from C3 Residential to D1 in order to extend the current dental surgery space at 6 Chigwell Rise, Chigwell IG7 6AB in accordance with the terms of the application, Ref PL/EPF/0160/12, dated 12 January 2012, subject to the following 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: ESS-150, ESS-805, ESS-806, ESS-807, ESS-808, ESS-810.
 - 3) The use hereby permitted shall not be open to customers/patients outside the following hours: 08:30 – 18:00 Mondays to Fridays; 08:30 – 12:30 Saturdays, nor at any time on Sundays, Bank or Public Holidays.
 - 4) No deliveries shall be taken at or despatched from the site outside the hours of 07:30 -18:30 Monday to Friday; 08:00 – 14:00 Saturdays nor at any time on Sundays, Bank or Public Holidays.
 - 5) The change of use hereby permitted shall not begin until a scheme for protecting the residential accommodation from noise from the dental surgery has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the change of use is implemented.

Decision Appeal C

3. The appeal is allowed and planning permission is granted for the change of use of part of existing dwelling house to form dental surgery (use class D1) at 6 Chigwell Rise, Chigwell IG7 6AB in accordance with the application Ref PL/EPF/0161/12, dated 12 January 2012, without compliance with condition number 8 previously imposed on planning permission Ref PL/EPF/0594/10, dated 22 June 2010 but subject to the other conditions imposed therein, so far

as the same are still subsisting and capable of taking effect and subject to the following new condition:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Main Issues

4. I consider there are two main issues relevant to all three appeals. The first is the effect of the proposals on the character and appearance of the area. The second is the impact on the living conditions of the occupiers of nearby residential properties with particular regard to noise and disturbance.

Reasons

Appeal A

5. Chigwell Rise is a primarily residential area, comprising detached properties in spacious plots. The eastern end of the street, where the appeal site lies, is close to a row of local shops and services along Chigwell High Road. Appeal A relates to a proposal for a single storey rear extension adjoining the existing garage. It would not be seen from Chigwell Rise and would be a relatively modest extension to the host building. In design terms, it would match the flat roof form of the existing garage. By reason of its size and location the proposed extension would not have an adverse effect on the outlook from neighbouring properties. The Council's main concern appears to be that this extension would lead to an unacceptable intensification of the use of the surgery. The extension is intended for use as an office for the practice manager and additional storage and the appellant has indicated a willingness to accept a condition limiting its use. In the circumstances I do not consider this small extension would harm the character and appearance of the surrounding area or the residential amenities of the occupiers of neighbouring properties. It would not conflict with the objectives of Policy CP2 of the Local Plan Alterations 2006.

Appeal B

6. The application which has led to appeal B seeks a change of use of part of the ground floor that was retained in residential use under the previous permission, which allowed the part conversion to a dental surgery. This has led to the rather unusual arrangement whereby the ground floor of the building is split between the dental surgery and the residential use. The appeal proposal indicates that one of the two rooms currently in residential use would be converted to an additional consulting room and the other would provide a relaxation room for patients. The Council is concerned that both rooms could be used as consultation rooms, making a total of four, compared to the current two consulting rooms. It considers that four consulting rooms and the residential unit would give rise to a need for 13 off-street parking spaces, whereas there are only six spaces available on site. However, Chigwell Rise is a wide road with no parking restrictions. I accept that additional on-street parking may occur as a result of the proposed change of use, but it is not unusual to see cars parked on-street in residential areas, and this would not in itself be harmful to the residential character and appearance of the area. Furthermore, the highway authority has confirmed that the proposal would not give rise to any highway safety issues. The proposal would lead to some additional vehicular and pedestrian movements along Chigwell Rise, but most

houses are set back from the road, and the level of increased activity would not be likely to give rise to unacceptable levels of noise and disturbance to nearby residents. I note the concerns raised by local residents about on-street parking in connection with the current use, but there is no evidence before me that any cars parked on Chigwell Rise are necessarily associated with the dental surgery, particularly bearing in mind the proximity of the local shopping parade on the High Road. At the time of my mid morning site visit there were very few cars parked on-street along Chigwell Rise.

7. I conclude that the change of use proposed in the scheme under Appeal B would not have an unacceptable effect on the character and appearance of the area or on the residential amenities of the occupiers of neighbouring properties. It would not conflict with the objectives of Policy CP2 of the Local Plan Alterations 2006.

Appeal C

8. This appeal relates to a condition imposed on the planning permission which allowed the change of use of part of the building to a dental surgery. The two reasons given for imposing the condition relate to safeguarding the character and amenities of the locality and to minimise demand for parking. I do not consider it reasonable to require the surgery use to cease if the residential part of the building is not occupied by a member of staff. An individual's choice of accommodation will depend on their personal circumstances which may change over time. It may not necessarily be the case that the residential unit at the appeal site will always be suitable for a member of staff. On the other hand, given the demand for residential accommodation in London it is likely that the upstairs flat could assist in meeting that wider demand. For the reasons given under Appeal B I do not consider that the limited additional on-street parking that may arise from the proposal would justify a refusal of planning permission, or give rise to conflict with Policy CP2 of the Local Plan Alterations 2006.

Conditions

9. I have considered the Council's suggested conditions in the light of the advice in Circular 11/95. In allowing Appeal C, I have worded the permission so as to retain the other conditions imposed on the original permission and it is not, therefore, necessary to repeat those in relation to the other two permissions, other than as detailed below.
10. In the interests of visual amenity I have imposed a condition requiring the use of matching materials on the permission granted under Appeal A. As indicated above, I have also imposed a condition restricting the use of the extension. Bearing in mind that the change of use allowed under Appeal B will lead to a different relationship between the residential and business uses in the building, I have imposed a condition requiring a scheme for sound insulation to be agreed, in the interests of the residential amenity of any future occupiers of the residential accommodation. I have also imposed a condition on the permission under Appeal B to limit the hours of use of the surgery and deliveries to and from the site in the interests of the residential amenities of the occupiers of surrounding dwellings. For the avoidance of doubt and in the interests of proper planning, I have imposed a condition that the schemes under Appeals A and B shall be carried out in accordance with the submitted plans.

Overall conclusions

11. I have taken into account the concerns expressed that these proposals will lead to an intensification of a business use in a residential area. However, the appeal site is a sustainable location, close to good public transport links, and with the imposition of suitable conditions to protect residential amenity, I consider that the limited expansion of the existing dental surgery represents a sustainable form of development, as encouraged by the National Planning Policy Framework. I do not consider that the appeal proposals either individually or cumulatively would have an unacceptable adverse effect on the character and appearance of the surrounding area, or on the residential amenities of the occupiers of surrounding residential properties. Nor would these decisions necessarily lead to further changes of use in the area as each case must be considered on its own merits. I have taken into account all other matters raised but find nothing to alter my conclusion that the appeals should be allowed.

Laura Graham

Inspector

Appeal Decision

Site visit made on 24 June 2013

by **Isobel McCretton BA(Hons) MRTPI**

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

Decision date: 12 August 2013

Appeal Ref: APP/J1535/A/13/2193053

Three Ways House, Epping Road, Ongar CM5 0BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Tracey Flint against the decision of Epping Forest District Council.
 - The application Ref. EPF/2137/12, dated 3 November 2012, was refused by notice dated 23 January 2013.
 - The application sought planning permission for minor material amendment to EPF/1333/09 (erection of 4 bedroom house) to include alterations to fenestration and the addition of rooflights to form a second floor of accommodation without complying with a condition attached to planning permission Ref. PL/EPF/1889/12, dated 22 October 2012.
 - The condition in dispute states that: The development hereby permitted shall be carried out in accordance with the following approved plans 2279/1C, 2279/2, 2279/3e, 2279/4e, 2279/5a, 2279/6a, and 2279/7a.
 - The reason given for the condition is: To ensure the proposal is built in accordance with the approved drawings.
-

Procedural Matters

1. Planning permission was granted for a 4-bedroom house in 2009¹ and details pursuant to various conditions were approved in March and June 2012². A non-material amendment was approved in October 2012, with a condition that the development be constructed in accordance with the approved plans submitted as part of the non-material amendment being added. The decision notice stated that the approval was to be read in connection with the approved decision notice dated September 2009 i.e. the original permission.
2. The current appeal application was for further amendments to the scheme which have been carried out. As the alterations have already been carried out, this means that the condition to construct the development in accordance with the approved plans has not been complied with. I have therefore considered this appeal as a refusal to grant retrospective permission for development without complying with a condition subject to which a previous planning permission was granted.

¹ Ref. PL/EPF/333/09 dated 15/09/09

² Ref. PL/EPF/0277/12 dated 21 March 2012 and PL/EPF/0818/12 dated 12 June 2012.

3. The address above is used in the appeal documentation and representations from the main parties. However I note that access to the site is from Springfield Close.
4. Amended plans (1150/11A and 1150/12A) were submitted with the appeal showing further changes to the fenestration which have since been made to try to overcome objections from neighbours and the Council. As this is what is now seen on site I have determined the appeal on the basis of these amended drawings.

Decision

5. The appeal is allowed and planning permission is granted for a minor material amendment to EPF/1333/09 (erection of 4 bedroom house) to include alterations to fenestration and the addition of rooflights to form a second floor of accommodation without complying with a condition previously imposed on planning permission Ref. PL/EPF/1889/12, dated 22 October 2012, but subject to the other conditions imposed on permission EPF/1333/09, dated 15 September 2009, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:
 - 1) The first floor bathroom windows on the front and side elevations, and the roof lights in the rear gable facing no.20 Springfield Crescent, which are all fixed shut and glazed with obscured glass as shown on drawings 1150/11A and 1150/12A, shall be permanently retained in that condition.

Main Issues

6. The main issues are whether the changes which have been made to the approved scheme have an adverse effect on the character and appearance of the area and on the living conditions of neighbouring occupiers in terms of loss of privacy.

Reasons

7. The appeal site sits at the end of a long private drive to the rear of properties in Springfield Close and Queensway. A detached house with an integral garage has been constructed and is virtually complete. The main changes which have been made to the approved scheme are the creation of accommodation in the roof space, rooflights inserted on the rear elevation, the double integral garage replaced with a single garage, study and WC and various changes to the fenestration.

Character and Appearance

8. The site is in a predominantly residential area which is characterised by detached houses of varying size and design. Three Ways House to the east, and Springfield Orchard to the south, are quite substantial dwellings, with probably at least 4 or 5 bedrooms. Those to the west are rather more modest but they appear to be 3 or 4 bedroom dwellings with a number probably having 5 bedrooms. The alterations which have been made to the approved layout means that there is now accommodation in the roof space of the appeal house comprising an open plan room with an internal en-suite bathroom in the front gable and a small kitchen. It is accessed by an open staircase directly into the main room and seems to be an area such as could be occupied by, for instance, an au pair or a teenager.

9. The house is tucked away at the end of one of the arms of Springfield Close and so is not widely seen from public vantage points. Although the Council and local residents consider the changes to be an overdevelopment of the site, the main manifestation of the additional room in the roof space arises from the rooflights on the rear elevations. The physical size of the structure has not changed. The Council does not suggest that the loss of the garage results in a deficiency in parking space at the property and the extra accommodation gained at ground floor level amounts to a study and a WC. It is claimed that there would be greater activity as more people would live in the house, but in my opinion there would be little discernable difference in comings and goings between a four and a five bedroom dwelling. Thus there would not be a material effect on the character and appearance of the area.
10. Moreover, as the appellant points out, the Officer's report to committee advised that, although certain permitted development rights have been withdrawn so that planning permission would be required for extensions to the dwelling, the creation of the accommodation in the roof space, insertion of rooflights and the use of the garage as habitable space could be carried out without the need for planning permission once the house is occupied. There are no conditions on the original permission which would prevent this.
11. As such, I consider that the amended scheme would not conflict with Local Plan policy CP7 which, among other things, seeks to resist overdevelopment and unsympathetic change.

Living Conditions

12. The Town Council supports neighbours' objections about the loss of one of the garages which, they contend, would lead to increased forecourt parking in a sensitive location close to other properties. However, there is no guarantee that the garage would have been regularly used by future occupiers to park vehicles. In any event, I see little difference in terms of noise and disturbance between cars being manoeuvred in and out of the garage or turned on the forecourt.
13. The side and front boundaries are generally screened by tall fences with boundary trees and new planting so that there would not be views into neighbouring properties from the ground floor rooms. Therefore I am satisfied that the ground floor changes to the fenestration would not have a material impact on the living conditions of the neighbouring occupiers.
14. The large bathroom window at first floor level shown in the front gable in the approved scheme (annotated on the block plan as having obscured glass) has been replaced with two smaller windows. In the revised plans which were refused by the Council, these windows are shown as being glazed with obscured glass and fixed shut. This is also shown on the revised drawings submitted with the appeal. At my site visit I saw that this work has been carried out and mechanical ventilation has been provided to the bathroom.
15. The same is the case for the bathroom windows on both the flank elevations. The approved drawings showed two bathroom windows on the elevation facing towards 20 Springfield Close and one facing towards Three Ways House with no annotation regarding the type of glazing. The refused amendments showed one window on each flank glazed with obscured glass and the bottom half of the window fixed shut. The appeal drawings show one window on each flank

with obscured glass and the whole window fixed shut. Again I saw that this work has already been carried out. In my opinion these revisions offer greater privacy for the occupiers of no.20 and Three Ways House over and above the approved scheme where there seems to have been no proposal or requirement for these windows to have obscured glass or to be fixed shut.

16. Perhaps the main bone of contention is the installation of rooflights in the rear of the main roof and the side of the rear gable. Those in the side of the gable are to the kitchen. As shown on the appeal drawings, these have been glazed with obscured glass and are fixed shut. There is mechanical ventilation to the kitchen area and 'borrowed' ventilation from the main attic room. There is therefore no loss of privacy to adjoining occupiers arising from these rooflights.
17. The rear facing rooflights are openable and clear glazed. The appellant estimates that the lower edge is 1.3m off the ground rather than 1.7m as stated on the revised drawings refused by the Council. The views out of the closed windows are out towards the end of the garden. The appellant estimates the distance to the rear of the houses in Queensway to be at least 47m and I agree that this would be sufficient to main the privacy of those occupiers. Oblique views can be obtained down towards the garden at no.20 and a ground floor side window, but this is only when standing right up against the open window and this view is partly filtered by boundary trees. Thus it seems to me that, in day to day living, the privacy of the occupiers of no.20 would not be unduly compromised.
18. The windows which I saw which seem to result in the greatest loss of privacy for adjoining neighbours are the first floor front windows to the landing and bedroom 3 and the rear window to bedroom 2. However both bedroom 2 and 3 windows were shown on the approved scheme. The landing window which has been installed replaces two windows which served the landing and another window to bedroom 3, but the view which can be obtained over the garden of no.18 and beyond from this window is little different from that which would have been available had the dwelling been constructed in accordance with the approved plans.
19. I therefore conclude that the alterations to the approved scheme which have been carried out do not result in a materially greater impact on the privacy of the adjoining occupiers than the approved scheme. Nevertheless, as this is dependent on various windows being retained as being obscure glazed and fixed shut, I shall impose a condition to that effect.

Other Matters

20. One of the neighbours has complained about loss of privacy from a CCTV camera which has been installed on the front of the house. However this is not part of the scheme before me
21. It has been suggested that the next step would be to convert the rooflights to mansard windows which result in a greater loss of visual intrusion and loss of privacy. However, under the terms of the original permission, that would require planning permission.

Conditions

22. I have considered the need for conditions in the light of the advice in Circular 11/95 - *The Use of Conditions in Planning Permissions*. As referred to above, in

the interests of the privacy of the adjoining occupiers it is necessary to impose a condition requiring that various windows are retained as being glazed with obscured glass and fixed shut.

Conclusion

23. I appreciate that the neighbours are very aggrieved that a dwelling, to which they have sustained an objection in respect of several applications, has not been built in accordance with the approved scheme. Nonetheless I have found that the alterations carried out would not have a materially greater impact on the character and appearance of the area or the living conditions of adjoining residents.
24. For the reasons given above I conclude that the appeal should be allowed. I will approve the minor material amendments subject to new conditions.

Isobel McCretton

INSPECTOR

Appeal Decisions

Site visit made on 20 August 2013

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

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

Decision date: 18 September 2013

Appeal A Ref: **APP/J1535/C/12/2186783**

Cold Hall Farm, Kiln Road, North Weald, Epping CM16 6AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Lauram Guglielmucci against an enforcement notice issued by Epping Forest District Council.
 - The Council's references are CSS/GAO/TP/7/1/2162 and ENF/196/12.
 - The notice was issued on 3 October 2012.
 - The breach of planning control as alleged in the notice is *without planning permission the change of use from a barn to a car body repair shop*.
 - The requirements of the notice are:
 - i) *Cease the use of the barn as a car body repair shop and*
 - ii) *Remove all vehicles and equipment in connection with said use from the land.*
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B Ref: **APP/J1535/A/12/2186744**

Cold Hall Farm, Kiln Road, North Weald, Epping CM16 6AD

- 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 Ms Lauram Guglielmucci against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0856/12, dated 1 May 2012, was refused by notice dated 1 August 2012.
 - The development proposed is the change of use of a barn as a car body repair shop.
-

Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at Cold Hall Farm, Kiln Road, North Weald, Epping CM16 6AD, as shown on the plan attached to the notice, for car body repairs subject to the conditions shown in the Annex to these Decisions.

Appeal B

2. The appeal is allowed and planning permission is granted for the use of a barn as a car body repair shop at Cold Hall Farm, Kiln Road, North Weald, Epping CM16 6AD in accordance with the terms of the application,

Ref PL/EPF/0856/12, dated 1 May 2012 and the plans submitted with it, subject to the conditions shown in the Annex to these Decisions.

Applications for costs

3. Applications for costs were made by Ms Lauram Guglielmucci against Epping Forest District Council in respect of both appeals. These applications are the subject of separate Decisions.

Ground (a) and the Section 78 appeal

Main Issues

4. The site lies within the Metropolitan Green Belt, but it is common ground between the main parties that the use of the appeal site does not constitute inappropriate development. Accordingly, the main issues are:
 - i) the effect of the development on the character and appearance of the area, which lies within the Metropolitan Green Belt;
 - ii) whether the development results in an unsustainable form of development with regards to use of the private car in a remote location, and
 - iii) the effect of the development on the safety of users of the access lane leading to the site.

Reasons

Character and appearance

5. The appeal site forms part of a quadrangle of former agricultural buildings just to the north of the large dwelling at Cold Hall Farm. The site is located in the countryside some way to the south of North Weald, and open fields surround the barns and the house. On my visit I saw that the part of the barns shown on the application and enforcement notice plans were being used for car repair work, and it was evident that paint spraying took place within.
6. The site is reached from Kiln Road which continues as a private lane, also giving access to other properties along its length. The appeal building has a blank façade facing the entrance to Cold Hall Farm, where a public bridleway crosses and only limited views from the entrance can be obtained of the internal quadrangle. No public views of the interior of the appeal building can be obtained, and views of the entrance to the appeal premises can only be seen once within the quadrangle itself.
7. Accordingly, the main effect on appearance is the parking of vehicles within the courtyard; most of these are likely to be closest to the appeal building and therefore out of sight from the public views. As a farm, it is likely that there would be tractors and other bulky farm equipment, farm workers' cars and visiting lorries and cars kept or parked in the same vicinity, and thus there would be very little change from the lawful use of the site. The same considerations apply to movements of cars and trailers to and from the site.
8. Some noise and smell might result from the bodywork repairs. However, the nearest public place is some way away, and whilst passers-by might be aware of some activity taking place, again, this would be unlikely to be so different

from the noise and smells often associated with working farms that it would materially affect the rural character of the area.

9. Saved LP Policy GB7A deals with conspicuous development within or beyond the Green Belt and says that development will be refused which would have an "excessive impact upon the openness, rural character or visual amenities of the Green Belt". Bearing in mind that the National Planning Policy Framework (the Framework) promotes economic growth in rural areas, and that saved Policy GB8A of the Epping Forest Local Plan (1998) and Alterations (2006) (LP) allows the re-use of buildings in the Green Belt for employment-generating uses, then it is reasonable to expect some activity and traffic movements from such uses. I see no reason why the development in this case would result in excessive impacts.
10. I therefore conclude on the first main issue that the development would not materially harm the character and appearance of the area, or conflict with saved LP Policies GB7A, LL1 or LL2, the latter two dealing with the rural landscape and inappropriate rural development.

Sustainable travel

11. The appeal site is located a bit less than 1 km outside of the built-up limits of North Weald. Thus, whilst the site is definitely located in the open countryside, it requires only a short journey from an existing settlement to reach it. Moreover, the small size of the unit limits the number of vehicles that could be worked on at any one time, and thus I consider it unlikely that it would result in a significant number of journeys. The appellant has indicated that the proprietor would collect vehicles for repair on a trailer and bring them to and from the site, which would reduce the number of movements even further, but even without this, I consider that the development would not result in significant harm in respect of the reliance on the use of the car.
12. Whilst the site would not be accessible by public transport, having regard to the fact that the use involves car repairs, most of the journeys could not be made by public transport in any event.
13. Whilst there would be reliance on travel by car, the movements are likely to be few, and the length of journeys short. I consider that this would not result in significantly harmful patterns of travel. My views on this are reinforced by the local and national policies referred to above which are permissive towards the employment reuse of rural buildings, and by advice in the Framework which recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Furthermore saved LP Policy ST1 provides that in rural areas, for development that has transport implications, preference will be given to locations with access to public transport, shops and facilities. Not only are the transport implications in this case minor, but the policy only expresses a preference for more sustainable locations.
14. Although the development would result in reliance on travel by car and would not be accessible by public transport, for the reasons given above, the harm that would be caused to sustainable travel objectives would be small. I therefore conclude on this issue that the development would not result in materially unsustainable travel or materially conflict with saved LP Policies CP1, CP2 or CP3, which respectively deal with sustainable development objectives, protecting the quality of the rural and built environment and general criteria for

new development. Nor would it conflict with LP Policy ST1 which deals with the location of development.

Highway safety

15. The lane which serves the site is single track and contains a number of sharp bends along its length where forward visibility is limited. This is of particular importance because horse riders use the lane and the various bridle paths in the vicinity. There is a stable at Cold Hall Lodge and the representations that have been submitted from local people and horse riders indicate that the area of the appeal site is well used for riding.
16. The fallback position is that the barn could continue to be used for agriculture, which would generate its own traffic. The appellant contends that this could include large agricultural vehicles, and whilst that could be so, I doubt that the barn, on its own, would be likely to generate many movements. Even so, it would be likely to generate some traffic, and I expect that historically the farm would have resulted in as many if not more movements than those likely to occur with the body repair use.
17. The lane already carries vehicular traffic and thus horse riders and other users would expect to meet traffic from time to time. The area is quiet, and horse riders, pedestrians and cyclists would be likely to be forewarned by the sound of approaching vehicles.
18. Whilst I attach considerable importance to the question of road safety, and in particular to more vulnerable users such as pedestrians and horse riders, in this case I am not convinced that the use would materially affect highway safety. I note that the Highway Authority had no objection to the proposal and I see no compelling reason to disagree with that view.
19. I therefore conclude that the development would not materially affect highway safety or conflict with saved LP Policy ST4 which deals with road safety.

Conditions

20. The Council has suggested a number of conditions which I have assessed in accordance with national advice. Conditions to restrict the use to car body repairs and spraying, to impose noise limits and to limit hours of operation are necessary to protect the living conditions of nearby residential occupiers. A condition to restrict external storage is required in the interests of appearance. I agree with the appellant that the hours of operation should start from 08:00, which is a time when work may be expected to commence, and I have amended the Council's suggested condition accordingly.

Overall conclusion

21. For the reasons given above, I conclude that the appeals on ground (a) and the s.78 appeal should succeed, that planning permission should be granted, and that the enforcement notice be quashed. As the ground (a) and s.78 appeals have succeeded, there is no necessity for me to deal with the appeal on ground (g).

JP Roberts

INSPECTOR

ANNEX

- 1) The premises shall only be used for car body repairs and car spraying and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 2) No car body repair work or car spraying shall be carried out on the premises, and no deliveries shall be made to the premises, before 08:30 nor after 18:00 on Mondays to Saturdays nor at any time on Sundays or Bank Holidays.
- 3) No external storage, including the storage of vehicles, shall take place in connection with the use hereby approved.
- 4) The rating level of noise emitted from the premises shall not exceed the existing background noise level by more than 5dB at any time. The noise levels shall be determined at the nearest residential premises and measurements shall be taken in accordance with BS4142:1997.

Appeal Decision

Site visit made on 29 April 2013

by **T M Smith BTP MRTPI**

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

Decision date: 26 July 2013

Appeal Ref: APP/J1535/A/13/2191936

Daneley Court Nursing Home, Queens Road, Buckhurst Hill, Essex, IG9 5BJ

- 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 Malcolm Wallace on behalf of Higgins Homes Plc against the decision of Epping Forest District Council.
 - The application Ref EPF/1785/12, dated 24 September 2012, was refused by notice dated 12 December 2012.
 - The development proposed is demolition of existing nursing home and the erection of 14 apartments and associated car parking spaces, amenity space, bin and cycle stores, foul and surface water drainage and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing nursing home and the erection of 14 apartments and associated car parking spaces, amenity space, bin and cycle stores, foul and surface water drainage and landscaping at Daneley Court Nursing Home, Queens Road, Buckhurst Hill, Essex, IG9 5BJ in accordance with the terms of the application, Ref EPF/1785/12, dated 24 September 2012, subject to conditions set out in the Annex to this decision.

Procedural Matters

2. The appellant has submitted with the appeal revised plans which would increase the level of parking provision on the site and provide balconies to the four apartments which front Queens Road. As such, these plans were not before the Council when it determined the application. The changes proposed constitute a material change to the appeal proposal which would require further public consultation. In light of this, I have determined the application on the basis of the original plans as listed in the Council's decision notice.
3. An executed Unilateral Undertaking submitted under Section 106 of the Town and Country Planning Act 1990 (as amended) which would secure education contributions has been drawn to my attention. Its absence did not form a reason for refusal. Nevertheless, it is relevant to my determination of this appeal. I consider the agreement in more detail later in my decision.

Main Issues

4. The Council consider that the appeal proposal would constitute an overdevelopment of the site based solely in respect of the level of parking provision and amenity space. I note that it is generally satisfied with the scale

and design of the proposed building and having observed the character and appearance of the existing building and the area, I share this view.

5. Accordingly, the main issues in this case are:

- whether the proposal incorporates adequate car parking provision; and
- whether the proposal would provide adequate amenity space for future occupiers.

Reasons

Car parking provision

6. The appeal site comprises a vacant and partially demolished Nursing Home located on Queens Road. The appeal site falls between two separate sections of shops to the eastern and western ends of Queens Road, with the central section consisting of residential development. In the vicinity of the appeal site there is a mix of detached and semi-detached properties as well as flats. I observed during my site visit that many residential properties, including flats, feature off-street parking either to the front or the rear.
7. Queens Road is one-way with double yellow lines. There are some sections of on-street parking that are part of a Controlled Parking Zone (CPZ) comprising both pay and display and residents permit parking. Further afield are a range of public car parks including pay and display car parks. The appeal site is located some 480 metres to the nearest bus stop with access to a range of bus services. In addition, less than 700 metres distance north east of the appeal site is the underground station at Buckhurst Hill, which is located on the Central Line and provides regular services to central London within approximately 30 minutes. A range of services and facilities are also available within walking and cycling distance of the appeal site. Accordingly, I consider that the appeal site occupies a sustainable location.
8. The proposed development would provide a total of 16 car parking spaces, 1 per unit and a total of 2 visitor spaces. These would be provided to the rear of the site. In accordance with policy ST6 of the Epping Forest Local Plan Alterations (EFLPA), new development is required to provide on-site parking in accordance with the adopted parking standards outlined in its Supplementary Planning Document "Vehicle Parking Standards". Whilst I have not been provided with a copy of the standards, the Council confirms that these require 1 bedroom properties to provide 1 space and 2 bedroom plus properties should have 2 car parking spaces per dwelling together with 0.25 visitor spaces per dwelling. These standards are not disputed by the appellant. Based on the standards, a development such as the appeal proposal should provide some 33 parking spaces. However, the supporting text to policy ST6 states at paragraph 17.31a: "*The standards also allow a degree of flexibility depending on the location of the new development...*" and gives the example of town centre locations with good access to public transport and other services where there is likely to be less need for car parking.
9. The Council considers that the provision of 16 spaces would be insufficient and represents an overdevelopment of the site, which notwithstanding the proximity of the development to transport links, would result in an increased car parking level in either Queens Road and/or surrounding roads. However, the Council has not provided any technical evidence in support of its reason for

refusal. Local residents have highlighted that due to the variety of uses in the area there is competition for car parking spaces within the Controlled Parking Zone. Whilst I appreciate the concerns of neighbours and empathise with their having to compete for car parking spaces, there is no substantive evidence before me which satisfactorily demonstrates that the current supply of car parking spaces is insufficient to meet existing and potential car parking demands. I find that the appeal site is located within a sustainable location with access to a choice of means of travel as well as services. Accordingly, ample justification is provided for a reduction in the car parking standards in this case. Therefore, the proposal would not constitute an overdevelopment of the appeal site.

10. The appellant has suggested a condition which would preclude future occupiers of the scheme, as well as their successors, from the ability to apply for parking permits in the CPZ. The Council does not consider that such a condition would overcome its concerns. As I have found that the proposal would make adequate provision for car parking, I do not consider that a condition would meet the tests outlined in Circular 11/95 "*The Use of Conditions in Planning Permissions*" in terms of reasonableness and necessity.
11. In conclusion on this issue, having regard to its sustainable location, the appeal proposal would provide an adequate level of car parking for future occupiers and would therefore accord with policies ST6 and CP7 of the EFLPA which seek, amongst other things, to secure on-site parking and prevent the overdevelopment of sites. In the absence of any specific objection by the Council in respect of the arrangement and siting of the car parking, the proposal would not conflict with policy DBE6 of the Epping Forest District Local Plan (EFDLP).

Amenity space

12. The appeal proposal would provide amenity space for future occupiers in the form of individual gardens and balconies together with a communal roof terrace on the second floor level. The total amenity space provided would be in the region of 196sqm. The majority of the amenity space is located to the rear of the property either at the ground floor immediately adjacent to the relevant flat or on the rear elevations. These areas, including the second floor roof garden, would be south facing and would therefore form an attractive and usable feature for future occupiers. Four apartments at first and second floor on the front elevation would not have a balcony. The appellant states that these were not provided in response to consultation with the Parish Council and local residents. As these balconies would be north facing and would have a prospect onto the street, I do not consider that their lack of provision would be to the detriment of the living conditions of any future occupiers, particularly having regard to the fact that this form of amenity space is not desired by everyone.
13. Policy DBE8 of the EFDLP suggests that communal areas for flats should be in the region of 25sqm for each unit. Consequently, the proposal would result in a shortfall in provision. However, the policy does allow for a relaxation in these standards where the development would be acceptable in all other respects. As I have found the car parking provision for the development to be adequate this circumstance applies to the appeal proposal. Public amenity areas are available within a reasonable distance of the appeal site and I am mindful that not everyone wants or needs a garden, or a communal space to share with fellow occupiers. Accordingly, given the nature of the amenity spaces

provided, I consider the amenity space proposed would be adequate for future occupiers.

14. To conclude on this issue, I am satisfied that the proposal would provide adequate amenity space for future occupiers and would not result in the inappropriate over development of the appeal site. Accordingly, the proposal would comply with policy CP7 of the EFLPA as well as policy DBE8 of the EFDLP.

Other Matters

15. Concerns have been raised by local residents in respect of loss of privacy, the removal of trees and noise and disturbance during the construction of the development as well as its future occupation by residents.
16. In relation to privacy, I am mindful of the previous nursing home and its relationship with adjacent properties as well as those on the opposite side of the road, particularly in terms of established window to window distances. Plan No 6 contained within the Design and Access Statement submitted within the original application indicates that the front building line of the new building would be broadly similar to the existing. I also observed during my site visit that comparable relationships exist between the front elevations of residential properties, including flats, along Queens Road. In light of these existing separation distances, I am satisfied that the appeal proposal would not lead to an unacceptable loss of privacy for those occupiers of properties opposite the appeal site. The proposed provision of Juliet balconies on the front elevation would not materially alter this.
17. In terms of possible overlooking from windows to the rear of the proposed building, while these would be closer to the rear elevations of properties that front onto Princes Road than those in the existing building, they would still be some 50 metres to 60 metres distant. Notwithstanding the removal of a group of conifer trees along the rear boundary, I am satisfied that the proposal would provide satisfactory window to window distances as well as window to balcony distances, to both to the front and rear of the building which would ensure that there would be no significant loss of privacy to adjacent occupiers that would undermine their living conditions.
18. I am satisfied that the privacy screens to the rear balconies will prevent overlooking towards 150 Queens Road which lies directly adjacent to the appeal site. The provision and retention of these screens could be conditioned. Views from the rear windows of the proposal would be sufficiently oblique to prevent any overlooking of the rear elevation and the immediate garden area belonging to No 150. The use of obscure glazing to those windows proposed in the side elevation at first and second floor levels would also prevent this from occurring. The provision and retention of this glazing could also be conditioned.
19. The appeal site is not heavily landscaped and whilst a number of trees are present on the site, they are largely hidden from public view on Queens Road. Consequently, their removal would not harm the character or appearance of the area.
20. Concerns have also been raised regarding the increased activity and lighting that is likely to take place to the front of the building given the location of the communal access as well as at second floor level in association with the communal garden. The entrance to the Nursing Home was previously on the

front elevation which would have attracted and established a degree of activity in this location. Given the degree of separation between the proposed building and the houses opposite, particularly given the intervening street and associated parking as well as its location at the periphery of a modestly vibrant commercial centre, I consider that it would be unlikely that any increased activity would cause any undue harm to living conditions of nearby occupiers. In relation to the communal garden at second floor level to the rear of the proposed building, notwithstanding its unusual nature in the context of the surrounding area, it would be enclosed on all but one side and would be unlikely to be used by all occupiers of the building at the same time, as noted by the Council in the committee report. Whilst, I understand the concerns of residents in respect of potential noise and nuisance associated with any construction of the scheme, this could be adequately controlled by condition.

21. As mentioned above, an executed Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 (as amended) has been submitted as part of this appeal. It would secure contributions towards the provision of primary, secondary and early years and childcare facilities. I am required to consider whether the undertaking satisfies the provisions of Regulation 122 of the CIL Regulations, in accordance with legislation and the Framework, specifically whether the obligations contained within the agreement are: necessary; directly related; and fairly and reasonably related in scale and kind to the development proposed.
22. Essex County Council (ECC) has submitted a representation which confirms that a contribution is required in accordance with policies CP3 and I1A of the EFLPA and EFDLP. A deficit in the provision of school places within the Priority Admissions Area, in which the appeal site falls, has been identified by ECC. The schools identified are Buckhurst Hill Community Primary School, St John's CE (V/C) Primary School and Roding Valley High. I have no reason to disagree with the information provided. Accordingly, I consider that the contributions are directly related to the proposed development and comply with Regulation 122.

Conditions

23. The Council have suggested 19 conditions, which I have considered against the advice in Circular 11/95: *The Use of Conditions in Planning Permissions* Where necessary and in the interests of precision, I have amended them to bring them in line with the guidance. I have used the Council's numbering when referring to them below, but following my amendments, the conditions are no longer in the precise order as suggested by them.
24. In addition to the standard implementation condition it is necessary, for the avoidance of doubt and in the interests of proper planning, to define the plans with which the scheme should accord.
25. In order to safeguard the character and appearance of the area it would be necessary to attach conditions regarding the submission and approval of details of external finishes. For the same reason, it would be necessary to attach conditions regarding the submission and approval of landscaping and measures to protect trees/hedgerows that are to be retained, together with finished floor levels, means of enclosure, parking layouts together with minor artefacts such as signage, lighting and functional services. There is some duplication and conflict between the Council's suggested conditions 8 and 16 in respect of

finished levels. However, much of this information required in suggested condition 16 has already been provided in drawing number 1411 – P003 Sections and Elevations. Accordingly, I do not consider that condition 16 would be necessary or reasonable but that would not preclude additional more detailed information being sought by the Council within the scope of my condition 4 set out below.

26. In the interests of highway safety it would be necessary to attach conditions which require that the private drive is constructed to a suitable width and depth where it connects with the carriageway and that redundant dropped kerbs are reinstated as part of the footway. To prevent hazards caused by water flow or the formation of ice on the highway, it would be necessary to ensure that any surface water from the development does not discharge onto the highway through the submission and approval of details of preventative measures. In the interests of both highway safety and residential amenity, it is necessary for details to be submitted and approved in respect of the installation of a wheel washing facility on the site in order avoid the deposit of material from the site on the highway.
27. The Council have suggested that a Residential Travel Information Pack (RTIP) be provided. The Council has provided no details of what such a pack might include. It is therefore not possible to assess what effect it might have and therefore whether the condition is reasonable and necessary. As such, I have not imposed the condition.
28. The appellant has undertaken a Phase 1 Desk Top Study Report (the Study Report) in respect of site conditions as well as a Demolition Survey for Asbestos. No asbestos has been found on the site however, the Study Report suggests that due to historic surrounding uses there is the potential for contaminants on the site. In light of this the Council has suggested a number of conditions relating to contamination and potential remediation. I agree that a condition is necessary in these circumstances. The condition I have used simplifies the range of conditions suggested by the Council on this matter and which included risks to crops, livestock, ancient monuments and archaeology which are of no relevance to this site.
29. Notwithstanding that the appeal site has low ecological value, it does offer the potential for post development biodiversity enhancement which would be consistent with the objectives of the National Planning Policy Framework in respect of providing net gains in biodiversity. Accordingly, I agree with the requirement for the development to provide nesting boxes for bats and birds and for their permanent retention on the site.

Conclusions

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

TM Smith

INSPECTOR

ANNEX - CONDITIONS SCHEDULE

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. Other than as required by the conditions below, the development shall be carried out in accordance with drawing nos. 1411-LOC, 1411-E001, 1411-E002, 1411-P001 Revision J, 1411-P01 Revision J (showing line of vision), 1411-P002 Revision J and 1411-P003 Revision D.
3. No development shall take place until details of the external finishes 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 full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include: proposed finished levels or contours; means of enclosure; car parking layouts; minor artefacts and structures (including signs, lighting); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc); and an implementation programme.
5. 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.
6. Any trees or plants within the approved details of landscaping 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, unless the local planning authority gives written approval to any variation.
7. No development, including any site clearance works, shall take place until a scheme of measures to protect existing trees and hedges on site during site clearance and construction has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the start of construction and/or site clearance works and all scheme measures shall be retained and complied with during the course of development and until all equipment, machinery and surplus materials have been removed from the site.
8. Prior to the occupation of the building hereby approved, the proposed private drive shall be constructed to a minimum width of 5 metres for at least the first 6 metres from the back of the carriageway and provided with an appropriate dropped kerb crossing of the footway.
9. No development shall take place until details for the reinstatement to full height of the footway and redundant dropped kerbs to the front of development has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of the development.
10. No development shall take place until details showing the means to prevent the discharge of surface water from the development onto the highway have

been 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 first becoming operational and shall be retained at all times.

11. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.
12. No development shall take place until details showing the location of one bird and one bat nesting box to be installed within the site have been submitted to and approved in writing by the Local Planning Authority. The nesting boxes shall be installed in accordance with the approved details prior to the occupation of the building and retained thereafter.
13. Demolition or construction works shall not take place outside 08:00 hours to 18:30 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
14. Before the first occupation of the building hereby permitted the windows in the side elevation of: flat 10 bed 2; and flat 14 living room, shall be fitted with obscured glass and shall be permanently retained in that condition.
15. Prior to occupation of any individual apartment, the privacy screens for that apartment shown on drawing nos. 1411 – P002 Rev J and 1411 – P003 Rev D shall be fitted and shall be permanently retained thereafter.
16. No development shall take place, including any works of demolition, until wheel washing or other cleaning facilities for vehicles leaving the site have been submitted to and approved in writing by the local planning authority. The approved cleaning facilities shall be installed prior to the commencement of works and used to clean vehicles immediately before leaving the site throughout the construction period.

Appeal Decision

Site visit made on 29 April 2013

by **L Graham BSc MA MRTPI**

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

Decision date: 27 June 2013

Appeal Ref: APP/J1535/A/12/2185051

New House Farm, Vicarage Lane, North Weald, Essex CM16 6AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Kerr against Epping Forest District Council.
 - The application Ref EPF/0834/12, is dated 27 April 2012.
 - The development proposed is the erection of a 50kw microgeneration wind turbine.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 50kw microgeneration wind turbine at New House Farm, Vicarage Lane, North Weald in accordance with the terms of the application, Ref EPF/0834/12, dated 27 April 2012, subject to the following 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: ASP-001, ASP-002, E-3120 – 50kw Monopole Rev A.
 - 3) The development hereby permitted shall be undertaken in accordance with the 'Precautionary Management and mitigation measures' recommended in Section 8 of the Ecological Appraisal and Assessment provided by Envirogague on 09/07/12.
 - 4) No development shall take place 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) construction vehicle access arrangements;
 - iii) storage of plant and materials used in constructing the development.
 - 5) No development shall take place until details of the finished colour of the turbine 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 and retained as such thereafter.

Main Issues

2. The appeal site is situated in the Green Belt and the main parties agree that the proposed turbine would constitute inappropriate development in the Green Belt. The National Planning Policy Framework (the Framework) establishes a general presumption against inappropriate development in the Green Belt. Therefore the main issues in this case are:
- The effect of the proposal on the openness of the Green Belt;
 - Its effect on the rural character and appearance of the surrounding area and the visual amenities of the Green Belt;
 - The impact on the residential amenities of the occupiers of dwellings in the locality, with particular reference to outlook and noise disturbance;
 - The impact on North Weald airfield;
 - Whether any harm by reason of inappropriateness and other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on openness

3. The proposed turbine would be located in an otherwise undeveloped field. As an engineering structure, the turbine would reduce the openness of the Green Belt. The proposal is for a medium-sized turbine with a hub height of 24.6metres and blade diameter of 19.2metres resulting in an overall height of over 34metres. The slim nature of the tower means that the loss of openness would be very modest. Nonetheless, openness is the most important attribute of the Green Belt and I attach substantial weight to the harm caused by loss of openness.

Character and appearance

4. The area within which the turbine would be located is characterised by predominantly flat farmland. The location of the proposed turbine would be over 400m from the busy A414 which runs to the south of the appeal site. The turbine would be visible from some locations along the road but the substantial mature hedgerow to the north of the road in the vicinity of the appeal site would reduce the impact on views in the vicinity of the appeal site. The site is about 700m from Weald Bridge Road and although there is less screening along this road, the turbine would not be a dominant feature as a result of the distance. The closest public views of the turbine would be from the footpath which connects Weald Bridge Road to Vicarage Lane. This bridleway is enclosed by mature vegetation for much of its length. The turbine would, nevertheless, be visible from a number of points along the track, but I do not consider that it would be a dominant or oppressive feature. The turbine would also be visible from footpaths to the north and west of the site, but at a distance of over 500m. The turbine is a slender structure and although it would be visible from a number of public locations, including those identified above, it would not be an intrusive or dominant feature. I have imposed a condition requiring the colour and finish of the turbine to be agreed by the Council to

minimise the visual impact. I conclude that the proposed turbine would have a very limited impact on the rural character and appearance of the area and would not conflict with Policy CPZ of the Local Plan Alterations.

Impact on residential amenity

5. The nearest residential property with no financial interest in the turbine is over 350m from the site of the proposed turbine. At this distance a medium-sized turbine of the kind proposed would not be a dominant feature or result in an unacceptable outlook from residential properties in the vicinity. The appellant has supplied noise data relating to the proposed turbine which demonstrates that noise from the proposed turbine would comply with the requirements of ETSU-R-97: The assessment and rating of noise from wind farms. I conclude that the proposed turbine would not lead to any unacceptable impact on the amenities of the occupiers of nearby residential properties.

Impact on North Weald Airfield

6. The North Weald Airfield General Manager has objected to the proposal and an objection was received from a Microlights operator based on the Airfield. The Appellant commissioned expert evidence to consider the technical aspects of these objections which concluded that the turbine would not present any hazard to operations at North Weald Airfield. Neither the Council nor the objectors have produced any evidence to counter the Appellant's expert evidence. In the circumstances I conclude that the turbine would not have any unacceptable impact on the Airfield.

Other considerations and very special circumstances

7. The Framework emphasises the importance of supporting the transition to a low carbon future and encourages local planning authorities to recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. It further indicates that the very special circumstances needed to justify inappropriate development in the Green Belt may include the wider environmental benefits associated with increased production of energy from renewable sources. The proposed turbine would make a meaningful contribution to reducing greenhouse gas emissions arising from energy usage at the Farm, including enabling the existing diesel-powered grain dryer to be replaced by an electric-powered dryer. I attach very substantial weight to this factor.
8. Overall I conclude that the benefit of the scheme associated with the production of energy from renewable resources is sufficient to outweigh the harm by reason of inappropriate development and the limited harm to the openness of the Green Belt and to the rural character and appearance of the area. This therefore constitutes the very special circumstances necessary to justify inappropriate development in the Green Belt.

Conditions

9. I have considered the Council's suggested conditions in the light of the advice in Circular 11/95. For the avoidance of doubt and in the interests of proper planning, I have imposed a condition that the scheme shall be built in accordance with the submitted plans. In the interests of the natural environment, I have imposed a condition requiring development to take place in accordance with the precautionary management and mitigation measures

recommended in the Ecological Appraisal and Assessment undertaken for the Appellant. In the interests of visual amenity, I have imposed a condition requiring the finished colour of the turbine to be agreed by the local planning authority. To avoid any unacceptable disturbance from construction work, I have imposed a condition requiring an approved construction method statement to be adhered to through the construction period.

10. I have taken into account the written ministerial statement: Local Planning and Onshore Wind issued by the Department for Communities and Local Government on 6 June 2013. Bearing in mind that the appeal scheme is for a medium-sized single turbine and no issues of cumulative impact are raised, I do not consider that the statement alters the conclusions I have reached. I have taken account of all other matters raised but find nothing to alter my conclusion that the appeal should be allowed.

Laura Graham

Inspector

Appeal Decision

Site visit made on 10 June 2013

by **Ian McHugh Dip TP MRTPI**

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

Decision date: 4 July 2013

Appeal Ref: APP/J1535/A/13/2192935
11A Lancaster Road, North Weald, Epping, Essex, CM16 6JA

- 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 Gary Packman against the decision of Epping Forest District Council.
 - The application Ref EPF/2192/12, dated 11 November 2012, was refused by notice dated 23 January 2013.
 - The development proposed is erection of fencing (1.8m in height) and change of use of land, currently in use for parking of residents vehicles, to residential curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of fencing (1.8m in height) and change of use of land, currently in use for parking of residents vehicles, to residential curtilage at 11A Lancaster Road, North Weald, Epping, Essex, CM16 6JA in accordance with the terms of the application, Ref EPF/2192/12 , dated 11 November 2012 , subject to the following 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: HM Land Registry Plan EX 623352; 1:500 scale site plan entitled "Sale of Land at Lancaster Road, North Weald, Essex"; Fencing Plan as submitted with the planning application and, considered by the Council; and Fencing Elevations as submitted with the planning application, and considered by the Council.
 - 3) The materials and colour to be used for the external finish of the fencing shall match those of the existing fence, unless otherwise agreed in writing by the local planning authority, prior to erection on site.

Procedural Matters

2. Representations have made which state that the appellant does not own the appeal site. This is private matter, but I note that the issue was given consideration by the Council when reaching its decision on the application; and that the appellant has signed Certificate A of the planning application form.
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Ownership of the site has also been confirmed in the appeal documentation. I therefore have no reason to consider this matter further.

3. I have used the description of the development as used by the Council in this appeal decision, as I consider that it provides a clearer description of the proposal.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the area; and the effect on pedestrian and highway safety.

Reasons

Character and Appearance

5. The appeal site is an open area of land, which is situated on the frontage of Lancaster Road, adjoining the appellant's private rear garden. At the time of my site visit, the site was in use for the parking of vehicles, and it appeared to be part of a larger parking area used by the occupiers of neighbouring residential properties.
6. The proposal is to enclose the appeal site with 1.8m high close boarded timber fencing and incorporate the land into the residential curtilage of the appellant's dwelling. The existing access to the car parking area on the western side (of the appeal site) would not be altered.
7. The Council considers that the erection of the proposed fencing would be unacceptably harmful to the character, visual amenity and openness of the area, due to its height, position and design. These concerns are also echoed by some local residents. The Council argues that the proposal would be in conflict with Policy CP7 of the adopted Epping Forest District Local Plan 2006 (LP), which requires new development to maintain and improve the environmental quality of the District's urban areas.
8. The proposal would result in an 8.5m length of fencing, positioned along the back edge of the pavement. Consequently, it would be highly visible in the streetscene. However, the appellant's existing rear garden (which runs parallel to the road) is already enclosed by fencing of a similar height and appearance to that proposed. As a result, I am not persuaded that the extended length would be out of context with its surroundings, or that it would be harmful to the appearance of this part of Lancaster Road.
9. I therefore conclude on this issue that the proposal would not have an unacceptable visual impact on the character and appearance of the area, and there would be no conflict with Policy CP7 of the LP, as referred to above.

Pedestrian and Highway Safety

10. Concern has been expressed by both the Council and local residents that the proposed fencing would restrict the visibility of drivers when emerging from the car parking area onto Lancaster Road, and also when manoeuvring within the car park. In this regard, Policy ST4 of the LP states that new development will not be permitted if it would have an adverse effect on road safety.

11. Whilst the proposed fence would have some impact on the visibility when leaving the car park (compared to the existing situation), the width of the access; alignment of the pavement; the likelihood that vehicles would be travelling at slow speeds; and the fact that vehicles would tend to emerge on the left side of the access; lead me to conclude that the safety of pedestrians and other road users either on the highway, or within the car park, would not be significantly affected by the proposal. I also note that the Highways Officer raised no objection to the proposal, which adds weight to my findings.
12. I therefore conclude that the development would not have an unacceptable effect on pedestrian and highway safety. Consequently, the proposal would not conflict with Policy ST4 of the LP.

Other Matters

13. Representations have been received stating that the proposal would result in the loss of off-street car parking space. I note that the Council Officer comments that the land was not originally intended for parking and was part of a grassed area. In addition, given that the land is owned by the appellant, measures could be taken to prevent vehicle parking without the need for planning permission. Consequently, I am not persuaded that the loss of parking space would be a sound reason for dismissing the appeal.
14. It has also been put to me that the proposed fencing would create a secluded area in which young people could congregate, leading to an increased risk of crime. Whilst I accept that fenced areas can be used in this manner, I have no substantive evidence to suggest that crime or anti-social behaviour is prevalent in the area, or that the site would be accessed by young people in this way. I have therefore attributed little weight to this argument.

Conditions

15. The Council has suggested conditions in the event of the appeal being allowed. These have been considered in the light of Circular 11/95. A condition requiring the development to be carried out in accordance with the approved plans is necessary, for the avoidance of doubt and in the interests of proper planning.
16. A condition is also imposed which requires the approved fence to match the existing fencing on the road frontage. This is necessary to preserve the visual amenity of the area.

Conclusion

17. For the above reasons, it is concluded that the appeal should be allowed.

Ian McHugh

INSPECTOR

Appeal Decision

Site visit made on 21 January 2013

by **Matthew Birkinshaw BA(Hons) MSc MRTPI**

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

Decision date: 3 April 2013

Appeal Ref: APP/J1535/A/12/2183105
48 Stradbroke Drive, Chigwell, Essex, IG7 5QZ

- 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 Allirajah Subaskaran against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0516/12, dated 14 March 2012, was refused by notice dated 30 May 2012.
 - The development proposed is the erection of a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. Stradbroke Drive is characterised by a varied mix of large, detached houses set back from the street in generous plots with extensive mature landscaping. Although several of the more recent developments extend the full width of their plots, the surrounding area remains predominantly suburban in its appearance. Similarly, despite being the largest on Stradbroke Drive, the existing appeal property still remains in keeping with its surroundings and forms part of a small cul-de-sac at one end of the street.
4. I appreciate that as a proportion of its plot, the proposed footprint would be similar to the existing house, and this in turn would be commensurate with others in the area. Likewise, the height of the central part of the house would only be increased by approximately 1.4m and the inclusion of single storey side pavilions would retain a degree of separation to neighbouring properties.
5. However, the increase in the width of the property at first floor level would be significant, emphasised by the 2-storey hipped projections at either end of the main house. The inclusion of six dormer windows on the front elevation, compared with the two at present, would also add considerable bulk and mass despite the use of a hipped roof and recessed dormers. In my view, these elements would accentuate the overall size and scale of the proposal. Combined with the large, six column projecting portico this would lead to a significantly larger dwelling than already exists which would dominate the streetscene. Whilst neighbouring properties also have porticos, in this instance

the size of the projecting six column feature would result in an appearance more akin to a stately home than a detached property within a suburban area.

6. The cumulative impact of the additional height, width and overall size is illustrated by information presented by the appellant. This confirms that the total above ground floorspace would be increased from approximately 972m² to almost 1,620m². In the context of largely suburban, and much smaller properties, this increased bulk and mass would result in an excessively large and incongruous development that would be detrimental to the character and appearance of the area. Although the replacement dwelling would be set back within a very large plot and follow the same building line and form of the existing house, in my view, this would not minimise the dominating and overbearing size and scale of the proposal within the streetscene. Likewise, although mature landscaping, trees and wide grass verges would soften its appearance, this would not be sufficient to mitigate the visual impact of such a large and imposing development on a residential street.
7. Similar concerns regarding the size and scale of development in this location were identified by a previous Inspector (Appeal Ref APP/J1535/A/09/2111768, dated 17 December 2009). In response, I appreciate that the scheme before me has been redesigned and was received positively by the Council's Planning Officer. The inclusion of single storey pavilions on either side has also reduced the scale of development. However, the increased width at first floor level, the extensive roof accommodation and large six column projecting portico remain. For these reasons I concur with the Council in finding that the proposal, whilst reduced in size, does not go far enough in sufficiently addressing the fundamental issues relating to the size and scale of development in this location.
8. Viewed in the context of its suburban surroundings on Stradbroke Drive, the size, scale, and massing of the proposal would significantly harm the character and appearance of the area. The proposal therefore fails to meet the requirements of *Epping Forest District Local Plan* (1998) Policy DBE1 which requires new buildings to respect their setting in terms of proportion and scale, and adopt a significance in the streetscene that is appropriate to their use or function. The proposal is also contrary to *Epping Forest District Local Plan Alterations* (2006) Policies CP3 (v) and CP7 which require the scale and nature of development to respect the character of the locality, and seek to restrict overdevelopment which results in unsympathetic change to an area. These policies are broadly consistent with the National Planning Policy Framework ('the Framework'), and the scheme is also contrary to the Core Planning Principles which require development to reflect the different character of areas.

Other Matters

9. In reaching my conclusions against the main issue I have also taken into account that the appeal property has been vacant for a prolonged period of time, and that planning permission was previously granted for the erection of three detached dwellings on the site. However, these factors do not justify a single dwelling which, by virtue of its size and scale would significantly harm the character and appearance of the area. Although the proposal would re-use a previously developed site and incorporate environmentally sustainable methods of construction, by failing to be in keeping with its surroundings and detracting from the character and appearance of the area the proposal is not the sustainable development as defined by the Framework.

Conclusion

10. For the reasons given above I conclude that the appeal should be dismissed. I have also considered the effect of the revocation of the Regional Strategy. However, in this case the revocation does not alter my conclusions on the impact of the proposal on the character and appearance of the area.

Matthew Birkinshaw

INSPECTOR

Appeal Decision

Site visit made on 15 April 2013

by **Michael Evans BA MA MPhil DipTP MRTPI**

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

Decision date: 14 May 2013

Appeal Ref: APP/J1535/A/13/2189853

Lioncare Ltd, 186 Forest Road, Loughton IG10 1EG

- 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 Miss Rebecca Dadoun against the decision of Epping Forest District Council.
 - The application Ref EPF/1755/12, dated 19 September 2012, was refused by notice dated 21 November 2012.
 - The development proposed is the conversion of storage garages to a new yoga and pilates studio and demolition of an outbuilding.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Miss Rebecca Dadoun against Epping Forest District Council. This application will be the subject of a separate decision.

Main issues

3. The main issues in the consideration of this appeal are:
 - The effect on the character and appearance of the area.
 - Whether appropriate provision would be made for car parking within the site and the implications for highway safety.

Reasons

Character and appearance

4. Development surrounding the appeal site is characterised by traditional two storey dwellings with a reasonable consistency of design. These are indicated by the Council to largely date from the Victorian period, while the Appellant indicates that those at 172-186 Forest Road were built in the 1920s. The main roofs of these properties are often relatively steeply pitched, with brick and some rendered walls below. The matching slopes of the main roofs give them a symmetrical and balanced appearance, while patterns of fenestration are generally restrained and traditional in form. Irrespective of the precise period the surrounding dwellings date from, these factors give an appreciable and attractive degree of coherence to the built environment.

5. However, the shallow sloping and asymmetric form of the roof of the first floor addition on top of part of the garages, together with the angled pattern of the windows reflecting and emphasising this roof-line, would unduly contrast with the existing roofscape in the vicinity. The appeal site relates most closely to the buildings found on three sides, rather than to the adjacent forest. In this context, rather than the cedar cladding appropriately reflecting the adjacent woods, it would be unacceptably out of keeping with the facing materials generally found in the built environment.
6. Due to these factors, the enlarged building would constitute a disharmonious and incongruous presence. It is acknowledged that contemporary design can be suitable but in this context the relatively close proximity to buildings of a traditional pitched roof appearance would result in a particularly discordant juxtaposition.
7. Although the existing buildings at the site have a somewhat functional appearance, the relatively modest single storey height significantly limits their prominence. The upper floor addition, on the other hand, would be in a noticeably more elevated position. In consequence, the detrimental effect would be particularly apparent in views down the access drive from Forest Road, as well as from the surrounding dwellings.
8. As a result of these factors the character and appearance of the area would be harmed. Saved Policy DBE1 of Epping Forest District Local Plan, originally adopted January 1998, intends that new buildings should respect their setting in terms of matters such as roof-line and detailing. While of acceptable scale, massing, proportions and orientation, as well as its height, due to the asymmetrical roof-line and angled window shape the first floor addition would be at odds with DBE1 (i). The cedar cladding would not be sympathetic in texture to the vernacular range of materials in the vicinity and would be in conflict with Policy DBE1 (iii).
9. Due to the readily apparent incongruity of the proposal, having regard to paragraph 60 of the National Planning Policy Framework (The Framework) the proposal would be detrimental to local distinctiveness, which would not be reinforced. The proposal would also be contrary to the core planning principles of the Framework that planning should always seek to secure high quality design and take account of the character of different areas.

Car parking and highway safety

10. It is clear that there are substantial parking pressures in Forest Road and other adjacent streets. However, there would be provision within the site to park 13 cars in connection with the existing office use and the proposed use following demolition of an outbuilding. There are also public car parks in the locality within reasonable walking distance. It also seems fairly likely that a significant proportion of the customers of the new business would come from the surrounding housing and therefore may well walk to the site. Furthermore, in the Council's report on the application it is indicated that the proposal would make adequate provision in relation to the appropriate parking standards and given these factors there are no reasons to take a different view.
11. There is sufficient space within the site for cars to turn and there is no evidence that the level of activity would be such as to result in significant conflict in the single vehicle width access drive. In addition, despite the lack of footways in

the access drive it is likely that relatively slow vehicle speeds would ensure that pedestrian safety is not compromised. Visibility for drivers leaving the site to enter Forest Road is acceptable but could be affected by parked cars. Obstruction by parked cars is a highway management issue rather than a sound reason for rejecting the proposal.

12. In these circumstances, it is concluded that the proposal would make appropriate provision for car parking within the site and highway safety would not be compromised, despite the concerns of local residents in these respects.

Other considerations

13. The proposal would involve the creation of a new business with additional employment, while providing a leisure facility involving additional investment for which it is claimed there is a local market. It is indicated in Paragraph 19 of the Framework that the planning system should do everything it can to support sustainable economic growth. However, it is made clear in paragraph 7 that sustainable development has an environmental and social dimension, as well as an economic role, which should not be undertaken in isolation. In this instance the economic benefits would be achieved at the undue expense of the quality of the environment. This is especially so as the provision of a yoga and pilates studio does not appear to be inherently dependent on the specific design proposed in this instance.
14. The new windows would serve a changing room. As a result a condition could reasonably be imposed to require obscured glazing so that they would not result in any undue overlooking. Were the appeal successful a condition could also be imposed limiting the hours of the business. This would ensure activity did not occur at anti-social times of the day when undue noise and disturbance might occur. The proposal would be adjacent to the flank wall of the immediately neighbouring property to the south-west. Because of this relationship the occupiers of this dwelling would not experience an unacceptable reduction in light levels or outlook. Other properties would be sufficiently distant to ensure that their occupiers would not experience any detrimental effect in these respects. There is no technical information to support concerns regarding access for the emergency services.
15. It is acknowledged that the application was recommended for approval by officers but this is not a factor that, in itself, confers acceptability and the proposal must be considered strictly on its own planning merits.

Conclusion

16. Taking account of all other matters raised, it is concluded that there are no other factors, including the acceptability in relation to car parking and highways issues, sufficient to outweigh the harm to the character and appearance of the area. The appeal therefore fails and in reaching this decision the views of local residents and other interested parties have been taken into account.

M Evans

INSPECTOR

Appeal Decision

Site visit made on 9 April 2013

by **J Westbrook BSC(ECON) MSC PGCE MRTPI**

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

Decision date: 16 April 2013

Appeal Ref: APP/J1535/D/13/2194160

**1 Ivy Cottage Mews, Theydon Park Road, Theydon Bois, EPPING,
CM16 7LW**

- 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 Ronald George Roast against the decision of Epping Forest District Council.
 - The application Ref EPF/1245/12 was refused by notice dated 19 December 2012.
 - The development proposed is to remove a diseased hedge and replace with recommendations; to remove tarmac and loose stones from driveway and replace with block paving; and fit a new sliding gate to front of house.
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Decision

1. The appeal is dismissed

Main issue

2. The main issue in this case is the effect of the proposal on the character and appearance of the area around Theydon Park Road and Theydon Green.

Reasons

3. The appeal property is a detached bungalow and garage situated on the western side of Theydon Park Road, close to its junction with Poplar Road and The Green. It lies close to the southern end of Theydon Green and is visible as something of a terminal vista when moving south along Poplar Road beside Theydon Green. It forms part of a complex of three bungalows that were recently constructed on the site of a previous dwelling. Planning permission for the three bungalows was subject to a condition requiring retention of landscaping, including the hedge to the front of the appeal property.
4. The current proposal would involve the installation of an electrically controlled sliding gate, with a maximum height of 1.25 metres, across the existing vehicular entrance to the property. It would also involve the removal or significant cutting back of a section of the hedge that forms the front boundary of the property and its replacement or subsequent management. At a recent appeal affecting the property the inspector noted that "the appeal site does not border the Village Green, an important feature of great attraction in Theydon Bois, but it is not far from it. This closeness, together with the contribution which this section of hedge makes to the prevailing rural atmosphere gives the frontage of the appeal site a pronounced affinity with the Village Green". I concur with this view.

5. The section of hedge affected by this proposal is in poor condition and the Council accepts that it would be appropriate to cut it back significantly in order to promote healthier growth. On the basis that the hedge would be kept in some form, the key issue is the effect of the proposed gate.
6. The area around Theydon Park Road and Theydon Green is characterised by a mix of properties with a range of front boundary treatments with significant use of hedges. The appearance of the area is somewhat typified by the use of open driveways and there is little use of gated entrances. The appellant has referred to a number of gated driveways in Theydon Bois but, with the exception of two similar examples on Poplar Row, these are not seen in the context of Theydon Green and most are set back from the front boundary. The two nearby examples at Pond House and Rakes Farm are set well back from the road and are not readily apparent in the street scene other than from directly opposite the property entrance.
7. By way of contrast the proposed sliding gate would be at the front boundary of the property. It would be prominent in the street scene and clearly visible from some way down Poplar Row to the north. It would be an incongruous feature in this location. Furthermore, it is not clear how the gate would affect the health and growth of the hedge when opening and in the open position.
8. The appellant also contends that the gate is necessary for security purposes, and has provided crime figures for Epping and Theydon Bois. It is not clear from the evidence submitted what proportion of the crimes relate to Theydon Bois itself. Furthermore, it would appear that vehicle crime has not noticeably increased over the period covered. Whilst I have some sympathy with any concern for personal security, there is no evidence before me that there is any significant issue with regard to vehicle crime in the vicinity, even given the characteristic openness of the frontages of the properties. In any case, the gate proposed would appear incongruous and would be harmful to the visual amenities of the area.
9. For the above reasons, I find that the proposal would be harmful to the character and appearance of the area around Theydon Park Road and Theydon Green. It would conflict with policy DBE9 of the Epping Forest District Adopted Local Plan, which relates to the design of new development. It would also conflict with the thrust of guidance on good design in Section 7 of the National Planning Policy Framework.

Other Matter

10. Although the application refers to replacement block paving, no details have been provided of this. In any case, this does not affect my conclusions regarding the proposed gate, as outlined above.

J Westbrook

INSPECTOR

Appeal Decision

Site visit made on 10 July 2013

by R Barrett Bsc Msc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 25 July 2013

Appeal Ref: APP/J1535/A/13/2195169

3 Crown Close, Sheering, Bishop's Stortford CM22 7ND

- 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 Mrs Jane Sweet against the decision of Epping Forest District Council.
 - The application Ref EPF/2392/12, dated 13 December 2012, was refused by notice dated 20 February 2013.
 - The development proposed is a new dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding reference in the design and access statement and appeal plan No 651.13 to a house in the place of the existing bungalow, I am determining this application, as the Council did, in accordance with the above description, which involves the partial demolition of the existing bungalow and a new dwelling to the side.
3. Whilst Planning Policy Statement 3 is referred to in the evidence before me, I am making my decision on the basis of the National Planning Policy Framework (the Framework) which replaces it.

Main Issue

4. The effect of the proposal on the character and appearance of the locality.

Reasons

5. The appeal site fronts onto Crown Close, set within a line of development, comprising two storey houses and bungalows. Properties are set on relatively large plots, giving the locality a spacious character, regardless of development on the other side of the road with a tighter layout. Wide grass verges, relatively large front and rear gardens, planting and trees on the boundaries and within the plots add to a generally green and spacious character.
6. The proposal would result in the two dwellings being set closer together within the appeal site than other properties in the locality. Even though there would be a wedge shaped open space between the two, this would be relatively narrow at the front. As it would be occupied by a close boarded high fence and a hardsurfaced parking space, there would be limited opportunities for planting. In addition, the proposed dwelling would be relatively wide, of two storeys,

would have a significant bulk and would be very close to the boundary with 5 Crown Close, which has a single storey garage near its boundary. The proposed dwelling sited close to the remodelled bungalow and the boundary with No 5 would have a cramped appearance. It would have greater site coverage than other plots on this side of the road and result in a more urban type of development. It would therefore fail to accord with the relatively green and spacious character of the locality. The harm identified would be greater if the first floor extension to the bungalow granted planning permission under Ref EPF/2393/12 was carried out. This would increase its bulk and together with the proposed dwelling would be likely to result in a development that would appear incongruous and intrusive in its surroundings.

7. In addition, the proposed access and parking arrangements would result in large areas of hardsurface in front of both properties and would provide little opportunity for planting to soften and screen the development's cramped and bulky nature. This would be the case even though the existing area of hardsurface which would serve the proposed new dwelling exists at present. Although there would be some screening from the constricted width of the existing drive which is bounded by planting, the combination of the two entrances would reveal the tight layout and significant bulk of the proposed development. In addition, the new access to serve the existing bungalow would be located close to that existing and would reduce the substantial hedgerow and the grassed verge in front of the appeal site. This, in addition to the areas of hardsurface in front, would cumulatively provide a more urban frontage to the appeal site than the norm in the locality and parked cars would be likely to dominate the street scene. Whilst proposed planting could help to reduce this impact, I have identified that there would be limited opportunities for planting within the frontage of the appeal site and for this reason it would not overcome my concern.
8. The appellant suggests that the proposed dwelling would be similar in height and bulk to the extended bungalow that has recently been granted planning permission (Ref EPF/2393/12). I have limited information on this permission. However, my concern is mainly for the combined significant bulk and cramped appearance of the two dwellings proposed within the appeal site, whether the bungalow would be extended or not. Whether the bulk of proposed dwelling would be similar to others in the locality or not, the effect of the appeal development as a whole would be harmful to the green and spacious feel of the locality.
9. I am aware that this appeal follows a number of previous refusals, and acknowledge the efforts made to address the Council's concerns. I have had regard to a previous Inspector's decision at the appeal site brought to my attention (REF APP/J1535/A/12/2175439). Whilst this was for a different proposal, I have concurred with my colleague's views where relevant to this appeal.
10. I conclude that the proposal would result in significant harm to the character and appearance of the locality and would be contrary to Policies DBE1, DBE6 and DBE10 of the Epping Forest District Local Plan (1998). These together, require that new buildings respect their settings in terms of the scale, proportion, siting and massing; extensions complement and where appropriate enhance the appearance of the streetscene; and, that car parking is located such that parked cars do not visually dominate the street scene. In addition, it

would be contrary to Policies CP2 and CP7 of the Epping Forest District Local Plan Alterations (2006) (LPA), which state that one of the Council's primary objectives is to make the fullest use of existing urban areas, whilst safeguarding and enhancing its setting, character and townscape. In addition, they state that new development in urban areas, which results in overdevelopment or unsympathetic change, will not be permitted.

Other Matters

11. As there would be adequate space within the appeal site to accommodate the car parking that the Council requires, even though I have concerns regarding its impact on the locality, I consider that it would generally accord with LPA Policy ST6.
12. I acknowledge the benefits of reusing the existing bungalow, and the energy efficiency credentials of the proposed dwelling and that it may be suitable for people with disabilities. In addition, the proposal would provide an additional unit of accommodation within the village of Sheering, although this is a relatively small village with limited amenities and public transport further afield. Whilst these may be benefits of the appeal proposal, they would not outweigh the significant harm to the character and appearance of the locality that would arise as a result. In addition, for this reason, it would not fit within the wide definition of sustainable development as set out in Paragraph 7 of the Framework.
13. The appeal site would not constitute previously developed land, as set out in Annex 2 to the Framework. Whilst such land is not a priority for development, this does not preclude applications affecting garden land from being considered on their particular merit. I have determined this appeal accordingly.

Conclusion

14. For the above reasons, and having had regard to all the other matters raised, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR

Appeal Decision

Site visit made on 3 September 2013

by **E A Lawrence BTP MRTPI**

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

Decision date: 9 September 2013

Appeal Ref: APP/J1535/D/13/2202263

2 Chigwell Park, CHIGWELL, Essex, IG7 5BE.

- 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 S Subramaniam against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0435/13 was refused by notice dated 15 May 2013.
 - The development proposed is first floor side/part two storey rear extension and part single storey rear extension.
-

Decision

1. The Appeal is dismissed.

Main issue

2. The main issue is the effect of the scheme on the living conditions of the occupiers of 197 High Road (No.197), with particular regard to visual impact, daylight and sunlight.

Reasons

3. The rear garden to No.197 is less than 10 metres deep and there are a number of tall, predominantly evergreen trees around its boundaries. As a result there is a strong sense of enclosure within the rear garden and in views from the ground floor rear rooms of the dwelling at No.197. This is relieved by a gap in the tree belt along the rear boundary, which provides open views into the wider rear garden environment and provides a significant source of sunlight and natural light within the garden area. At the same time some of the Leylandii trees, which currently screen the flank wall of the Appeal property have started to die back. The small gaps created by this provide an additional source of daylight and sunlight within the rear garden.
4. With the Appeal proposal the two storey flank wall of the resultant house would be moved to within one metre of the rear boundary of No.197. It would be four metres deeper than the existing dwelling and would project over 65% along the rear boundary of No.197. The rear section of the proposed extension would also project in front of the existing open gap between the trees adjacent to the rear boundary of No.197.
5. To construct the proposed extension the Leylandii trees adjacent to the rear boundary of No.197 would need to be extensively cut back. This would materially compromise their ability to screen the proposed flank wall, which

would be visually stark and oppressive. At the same time, due to its height, depth and siting, the proposed extension would reduce the level of sunlight within the garden of No.197 during the late afternoon and early evening.

6. As a result of these factors the proposed extension would be visually overbearing when seen from the garden and rear ground floor rooms of the dwelling at No.197. The harm that would be caused would outweigh the benefits arising from the proposed additional accommodation for the occupants of the Appeal property.
7. Residents have expressed concern regarding the impact of the Appeal scheme on the appearance and future health of the Leylandii trees adjacent to the rear boundary of No.197. These trees are mature and are already showing signs of decline. Due to their proximity to the proposed flank wall of the extension and the nature and extent of cutting back that would likely be necessary, the western sides of the trees are likely to remain bare and stark in the long term.
8. Although these trees contribute to the verdant character of the locality, due to their age, size and general condition, their loss at some time in the future would not have a materially adverse impact on the character and appearance of the area. However, the decline or loss of these trees would result in the flank wall of the extension being more exposed, when seen from the rear garden of No.197 and this adds to my concerns regarding the proposal.
9. I conclude that the proposal would materially and unacceptably harm the living conditions of the occupiers of No.197 due to its visually overbearing impact and loss of sunlight. It would therefore conflict with policy DBE9 of the Epping Forest District Local Plan and Alterations and the National Planning Policy Framework. Together and amongst other things they seek to protect the living conditions of residents and ensure that new developments are visually attractive and add to the overall quality of an area.

E Lawrence

INSPECTOR