



Appeal Decision

Site visit made on 21 February 2019

by **S Harley BSc(Hons) MPhil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 7th March 2019

Appeal Ref: APP/J1535/W/18/3208280

37 Hillyfields, Loughton IG10 2PT

- 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 Tappenden, SJT Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/3512/17, dated 22 December 2017, was refused by notice dated 30 May 2018.
 - The development proposed is construction of new access with 7 No three bed houses and 2 No two bed houses and associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the site as stated on the planning application form is set out above. However, the site address is described as 'land to the rear of Nos 33-37 Hillyfields, Loughton, Essex IG10 2PT' on the planning decision and the appeal form. This is a more accurate description of the site as shown on the plans and I have considered the appeal on this basis.
3. Since the appeal was submitted an updated and revised National Planning Policy Framework February 2019 (the Framework) and the 2018 Housing Delivery test Results (the HDT) have been published. I have taken these into account in considering the appeal.
4. The Epping Forest District Local Plan (Submission Version) 2017 (the emerging LP) is at Inquiry Stage. In accordance with the Framework appropriate weight can be given to its Policies depending on the stage of preparation; the extent of unresolved objections and the degree of consistency with the Framework.
5. Committee Members refused the planning application against the recommendation of the Council Officers. I have exercised my own judgement in respect of the planning merits of the proposal.

Application for costs

6. An application for costs was made by Mr S Tappenden, SJT Limited, against Epping Forest District Council. This application is the subject of a separate Decision.

Main Issue

7. The main issue is whether or not satisfactory living conditions would be provided for future occupants of the proposed dwellings.

Reasons

8. The site formerly contained lock-up garages which have been demolished. It is within the built-up area of Loughton with good accessibility to services and facilities. Residential development would be acceptable in principle provided relevant planning policies and material considerations would be satisfied.
9. The proposal is for nine dwellings arranged in two terraced blocks. Block A would be at right angles to Block B. The proposed layout would mean that the front elevations of three properties in Block B would wholly or partially face the side wall of Block A at a distance of about 5.6m.
10. The side wall of Block A would be some 9m long and about 5m high to the eaves line. The Building Research Establishment guidelines 'Site layout for planning for daylight and sunlight: a guide to good practice' (BRE Guidelines) indicate that an acceptable daylight in interiors would be achieved if a 25-degree vertical angle from a centre point of a window is not obstructed. The Essex Design Guide advises that this would equate to at least a 10m spacing between opposite house fronts.
11. The appellant has submitted an External Daylight Study. Table 6 of the Study indicates that four windows in Block B would have a Vertical Sky Component of less than 80% of the required target. Two of the affected windows would serve cloakrooms for which external daylight is not essential. However, two would serve kitchens for which daylight is considered important in the BRE Guidelines. Moreover, Table 6 also indicates that more windows would have a shortfall than if Block B were not in the position proposed in relation to Block A. In my view this would result in gloomy and unsatisfactory living conditions for future residents in parts of Block B. That there would be rear windows in separate living rooms does not lead me to any different conclusion.
12. Moreover, and although not referred to on the decision notice, I consider the outlook directly onto the flank wall of Block A from parts of Block B at a distance of less than 6m would be less than satisfactory. I remain of this view even though the hipped roof to Block A would reduce that over bearing and over dominating effect to some degree.
13. The proposal is for two new blocks and, in my judgement, it would not amount to good design for a new development to have sub-standard daylight and a poor outlook arising solely from the proposed layout. I conclude that the proposed development would not provide satisfactory living conditions for some future occupants. Accordingly I find conflict with Policies DBE9 of the Epping Forest District Local Plan 1998 and Alterations 2006 (the LP) and Policy DM9 H(i) of the emerging Plan, which seek adequate daylight, sunlight and open aspects to all parts of development. There would also be conflict with those principles of the Framework that seek a high standard of amenity for future occupants.

Other Matters

14. Given the proximity of the appeal site to the Epping Forest Special Area of Conservation (SAC) and the interim advice from Natural England, the requirements of The Conservation of Habitats and Species Regulations 2017 (the Regulations) apply to this appeal. The Regulations require that special consideration is taken in respect of European sites (which include SACs). Planning permission can only be granted where it has been ascertained that the development will not adversely affect the integrity of the SAC.
15. The appellant has provided a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 to pay a financial contribution to mitigate against the harmful effects of development on recreational receptors in the SAC and to address any identified air quality issues. Had I been minded to allow the appeal I would have required much more information in relation to these matters. However, as I have already concluded that the appeal will be dismissed for other reasons, the circumstances that would lead to a grant of permission are not present here. As a consequence, I do not need to undertake an Appropriate Assessment or give further regard to the subsequent tests specified in the Regulations or to look at the Unilateral Undertaking in detail.
16. The appellant amended the proposals to address concerns raised and has expressed dissatisfaction with the advice provided by the Council. However, neither of these go to the heart of the planning matters related to this appeal.

Planning Balance and conclusion

17. Paragraph 9 of the Framework explains that the economic, social and environmental objectives of sustainable development set out at Paragraph 8 should be delivered through the preparation and implementation of plans and the application of the Framework; they are not criteria against which each decision can or should be judged. The appellant indicates that the Council cannot demonstrate a five-year supply of deliverable housing land and the recently published HDT indicates Epping Forest District Council delivered 49% of its housing requirement over the past three years. In such circumstances the provision of additional housing should be afforded significant weight.
18. However, Footnote 6 to Paragraph 11 of the Framework, in combination with Paragraphs 176 and 177 of the Framework, indicate that the presumption in favour of sustainable development does not apply where a development requires an Appropriate Assessment under the Regulations. The balance to be struck is therefore a balance with no presumption in favour.
19. I have found that the development would not provide satisfactory living conditions for all future residents; would not amount to good design and would not accord with the Policies of the development plan as set out above. On the other hand it would make efficient use of a previously developed site in an accessible location. It would boost the supply of much needed housing which attracts significant weight. The proposed density of development would not be unacceptable in itself. However, there are other ways in which good use can be made of the site as is evidenced by the planning permission for seven dwellings on the same site Ref EPF2913/16.
20. On balance I conclude that the benefits would not out-weigh the harm I have identified. In failing to comply with Policy DBE9 of the LP the proposal cannot

comply with the development plan taken as a whole. I find no other material considerations that would justify reaching a decision other than in accordance with the development plan.

21. For the reasons set out I conclude that the appeal should be dismissed.

S Harley

INSPECTOR