



## Appeal Decision

Site visit made on 18 April 2019

**by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH**

an Inspector appointed by the Secretary of State

Decision date: 4<sup>th</sup> June 2019

---

**Appeal Ref: APP/J1535/W/19/3221501**

**Lindsey House, 15 Lindsey Street, Epping CM16 6RB**

- 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 Daletrent Limited against the decision of Epping Forest District Council.
  - The application Ref EPF/2120/18, dated 20 July 2018, was refused by notice dated 5 December 2018.
  - The development proposed is change of use of care home (Use Class C2) to 6 flats (Use Class C3), including rear extensions and side extensions.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. An emerging plan, the Epping Forest District Local Plan Submission Version 2017, was submitted to the Secretary of State on 21 September 2018 for examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework (the Framework), I give it limited weight and it does not alter my conclusions.

### Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
  - the character and appearance of the appeal building and area;
  - the living conditions of occupiers of 17 Lindsey Street (No 17), as regards overshadowing and outlook.

### Reasons

#### *Character and appearance*

4. Lindsey Street is a predominantly residential street, lying just outside of the town centre, principally defined by detached and semi-detached housing. The properties in the immediate vicinity of the appeal site are varied in design, form and massing.
5. The appeal property is a large 2-storey building, previously in use as a care home. It has been extended several times, including rear and side extensions. The overall effect of the various additions is a rather cluttered arrangement affecting the appearance of the rear of the building. The front of the building presents as a large single detached house in 1930s Mock Tudor style.

6. The proposed changes to the building would be towards the rear, with limited views from the street. The front of the building would be unchanged. Consequently, there would be a limited effect on the streetscene. In any respect, the proposal would end the untidy arrangement of incongruous building elements to the rear and provide a design more in keeping with the building as a whole. The gable ends, pitch roofs and materials of the rear façade would complement the period design of the original property, while the new pitch roof elements would follow the pitch of the existing outrigger roofs. The proposed fenestration and detailing would create a pleasing degree of symmetry. The overall effect would be to create a more uniformed design to the rear following the existing rhythm of the property.
7. For these reasons, the proposed development would not harm the character and appearance of the building or area. As such, it is not in conflict with Saved Policy DBE1 of the Epping Forest District Local Plan (2008) (LP) which seeks to protect the character and appearance of places.

*Living conditions, occupiers of No 17*

8. The appeal building extends around 11.5 metres at first floor level beyond the rear elevation of No 17, with much of the building being on or near the shared boundary. The appeal proposal would materially affect the current arrangement by extending the total length of the rear projection and creating a first-floor extension over the existing roof terrace at the rear of the building. This would result in two storeys with a depth of around 15.5m from the rear elevation of No 17, on or close to the shared boundary.
9. Due to the current building form, and the orientation of the existing building broadly to the south, the garden of No 17 experiences a significant amount of overshadowing. This is evident in photographs provided by the occupiers of that property, at different times of year, and on which I place strong weight.
10. The photographs also show shadows of the railings associated with the existing roof terrace and the light between, and adjacent to, the railings which would not reach the garden were the proposed first floor extension over the roof terrace built. In my judgement, this would unacceptably erode the amount of direct sunlight reaching the garden of No 17. The fact that the current building form already significantly reduces direct sunlight to the garden does not justify a further reduction, but rather makes it more unacceptable.
11. The appellant has submitted an expert report<sup>1</sup> which concludes that 92% of No 17's garden would receive at least 2 hours of direct sunlight on the spring equinox (21 March) under the proposal, compared to 93% at present. This is said to be acceptable, particularly as British Research Establishment (BRE) criteria<sup>2</sup> recommend that at least half (50%) of an amenity area should receive at least two hours of sunlight on that date.
12. However, while I acknowledge that much of the garden would receive at least 2 hours of sunlight on the date referred, it does not diminish the unacceptable harm that would be caused by increased shadow to the garden experienced by the occupiers, and which would be particularly pronounced at times.

---

<sup>1</sup> Overshadowing Report for the Proposed Development at 15 Lindsey Street, Epping, Essex, CM16 6RB (Malcolm Hollis LLP, 21 January 2019, Ref: 75082/IM/BSC)

<sup>2</sup> Building Research Establishment (BRE) Report "Site Layout Planning for Daylight and Sunlight – a guide to good practice" 2nd Edition, 2011

13. The increased mass of built form, in combination with the existing considerable bulk of development on or close to the shared building, would also be overbearing and create a sense of oppression to the occupiers of No 17 when using their garden. While I acknowledge that a tunnel effect would not be created, due to an open aspect to the garden on its northern boundary with No 19, this would not sufficiently temper the harmful effect of the considerable built form of the proposal on the southern boundary so far as to make it acceptable.
14. For the above reasons, the proposed development would cause significant harm to the living conditions of the occupiers of No 17 through overshadowing and impact on outlook. As such it is contrary to Saved Policies DBE2 and DBE9 of the LP which together seek to protect the amenity of neighbouring occupiers.

### **Other Matters**

15. The proposed development would provide 6 homes on previously developed land, bringing a vacant building into active use, which would be benefits of the proposal in support of the Framework's aims to boost the supply of housing and make efficient use of land. There would also be economic benefits through construction and those associated with local spending by future occupiers. However, taken in totality these benefits would not outweigh the significant harm to the living conditions of No 17 that the proposed development would cause.
16. The appellant is willing to enter into a Planning Obligation (PO) to make a financial contribution towards mitigating adverse effects to the Epping Forest Special Area of Conservation (SAC) caused by the creation of new homes within its surrounding area. As the appeal is being dismissed for reasons relating to the main issues, it is not necessary to consider the PO any further.

### **Conclusion**

17. The proposed development would not accord with the development plan as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

*Andrew Walker*

INSPECTOR