
Appeal Decision

Site visit made on 11 July 2017

by Simon Warder MA, BSc(Hons) DipUD MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/J1535/W/17/3169606
113 Church Hill, Loughton IG10 1QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Co-op (C&I Property) (Mr James Litherland) against the decision of Epping Forest District Council.
 - The application Ref EPF/1741/16, dated 24 June 2016, was refused by notice dated 1 February 2017.
 - The development proposed is residential development of up to 10 no apartments with details of access.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 10 no apartments with details of access at 113 Church Hill, Loughton IG10 1QR in accordance with the terms of the application, Ref EPF/1741/16, dated 24 June 2016, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for further approval. The application was accompanied by drawings showing plans and elevations for a three storey building on the front part of the site with car parking to the rear¹. The plans are marked as indicative and I have considered them as such.
3. The application was refused for three reasons, two of which concerned highway safety matters. The Council has subsequently resolved to withdraw its objections both highway safety reasons for refusal. I have framed the main issue accordingly.

Main Issue

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

Reasons

5. Whilst the Council argues that site constraints and the requirements of the scheme point to the need for a three storey development, I note that it has approved an indicative proposal for a two storey building of up to ten flats on

¹ Drawing numbers 6009(P)103 Rev F; 6009(P)104 Rev G; 6009(P)204 Rev D and 6009(P)208 Rev F.

the site². Moreover, I understand that the plans original submitted with the appealed application showed a two storey building and were changed on the advice of officers. This suggests that, notwithstanding the Council's concerns regarding the three storey indicative scheme considered when the application was determined, other building configurations are feasible. The Council would have control over the form, height and massing of the building at the reserved matters stage.

6. The appeal site currently accommodates a single storey commercial building which is set back from the Church Hill frontage, but takes up a large part of the remaining site area. The site sits between a substantial two storey detached dwelling at No 111 and a petrol filling station. The road slopes steadily down from south west to north east such that No 111 is at a higher level than the site and the petrol filling station at a lower level. Beyond No 111 is a terrace of three storey dwellings and beyond the filling station is a modern three storey retail and residential building known as Cobalt Place. This part of Church Hill is, therefore, characterised by commercial and residential buildings in a mix of built forms.
7. The top of the first floor level of the proposed building would be at approximately the same level as the eaves of the adjoining dwelling. Its overall height would be about the same as the ridge level of the dwelling, albeit that this is achieved in part due to the sloping ground level. The indicative plans show the second floor of the building set in from the lower floors at the front and on both sides of the building. This arrangement would help to reduce the bulk of the building at second floor level. Nevertheless, I share the Council's concern that the massing of the current indicative scheme would be dominant in relation to No 111. However, given that it has been shown that there is scope for alternative configurations of the building, I see no reason why the bulk of the upper floor of the building could not be reduced further to the point where it would not dominate No 111.
8. The Council has also expressed concern regarding the proximity of the front of proposed building to the Church Hill frontage; it would be set forward of the petrol filling station. However, the proposed building would be on the same alignment as No 111 and there is no substantive evidence to suggest that the position of the canopy over the petrol filling station represents an appropriate benchmark for the siting of buildings in this part of Church Hill. Again, the scope exists for the upper floor of the proposed building to be set back further back in order to reduce its prominence in the street scene. Moreover, the front of the building in the approved scheme is shown in the same location. Whilst it would be two storeys in height, the gabled front wall would be similarly prominent in the street scene.
9. With these considerations in mind, and in view of the range of building types in the area, I am not persuaded that a three storey building on the appeal site would be unacceptable in principle. Consequently, I find that the proposal would not have a harmful effect on the character and appearance of the area. As such, it would not conflict with Epping Forest District Local Plan Alterations 2006 Policies CP2(iv), CP3(v) or CP7 insofar as they seek to safeguard and respect the character of the urban environment and ensure that the scale of development respects the character of the locality. Nor would it be contrary to

² Application reference EPF/0862/17

Epping Forest District Local Plan 1998 Policy DBE1 which requires new buildings to respect their setting in terms of scale, siting, massing and detailing and to be of a size appropriate to their position in the street scene. Furthermore, the proposal would accord with the design policies of the National Planning Policy Framework (the Framework) to the extent that they have similar aims.

Other Matters

10. Concern has been expressed locally regarding the effect of the proposal on the living conditions of the occupiers of neighbouring residential properties. The concerns regarding the properties to the rear of the site in Marjorams Avenue are loss of privacy and sunlight and noise generated by future occupiers of the building. The indicative proposal shows the rear of the building some 12m from the common boundary and more than 25m from the rear walls of the neighbouring dwellings. This separation distance would normally be sufficient to prevent overlooking. However, the scheme appears to include a rear-facing second floor terrace and I recognise that this could give rise to a heightened perception of overlooking. In order to allay this concern, a condition restricting access to flat roof areas to maintenance and emergency purposes could be imposed.
11. The proposed building would be located to the north-west of the Marjorams Avenue properties. Having regard to the distance between the building and the boundary, it would, therefore, have negligible effect on the amount of sunlight reaching the gardens of those properties. Whilst the proposal would make more intensive use of the site, given the separation between the new building and the adjoining properties, I see no reason why the proposed residential use should lead to unacceptable noise levels for neighbouring occupiers.
12. The side wall of the proposed building would be close to the common boundary with No 111 and the indicative elevation drawing shows a number of windows at first and second floor levels which have the potential to overlook that property at short range. However, those windows towards the front of the site would face the flank wall of No 111. That wall has two small windows at first floor level which do not appear to serve rooms likely to be used for significant period of the day. The windows proposed towards the rear of the new building could be obscured glazed to prevent overlooking of the garden area of No 111. The exact positions and glazing of the windows would, in any event, need to be agreed at the reserved matters stage, at which time the privacy of the occupiers of No 111 would be fully considered. Consequently, I consider that it is not necessary to impose a condition to control this matter.
13. The planning system allows for outline planning applications to be submitted where matters including appearance, layout, and scale may be reserved for further approval. Although the submission of revised drawings has complicated matters in this case, making it challenging for interested parties to follow the process, it is evident that they had the opportunity to comment on the revised scheme. The appeal process has provided a further chance to comment. As such, I consider that it would not prejudice the interests of anyone concerned with the outcome of the appeal to take the revised drawings into account.
14. It has been suggested that the proposal should make provision for affordable housing. However, I have not been made aware of any policy support for this requirement.

15. Concern has also been expressed regarding the amount of parking provided and the effect of the proposal on traffic flows on Church Hill. These matters were considered in some detail in the Transport Statement of Common Ground which was agreed by the local highway authority. In the absence of substantive evidence to the contrary, I see no reason not to accept the findings of the Transport Statement.
16. The approval of reserved matters would deal with landscaping, including site boundary enclosures. This process would allow a rear boundary enclosure ensuring the security of neighbouring properties to be agreed and implemented. Conditions could also be used to secure the approval and implementation of ground remediation and flood protection schemes.
17. The effect of the development on neighbouring property values is not a planning matter.

Conditions

18. The Council has suggested a list of 24 conditions (based on the previously approved scheme). Suggested conditions 11 (landscaping), 12 (external materials) 13 (means of enclosure) and 24 (meter boxes etc) are unnecessary since they fall within the scope of the approval of reserved matters. The requirement of suggested condition 19 (wheel washing facilities) can be covered by suggested condition 10 (Construction Method Statement). With amendments for clarity, I find that the remaining conditions meet the tests set out in the Planning Practice Guidance. In addition, for the reasons set out above, I will impose a condition preventing the provision of a second floor rear-facing terrace or balcony. The officer's report contains a suitable condition and has been accepted by the appellant.
19. A condition specifying the approved plan is necessary in the interests of certainty. A Phase 1 ground investigation report has already been submitted and recommends further investigations. Conditions to secure a Phase 2 investigation, the implementation of any remediation works, a verification report and measures in the event of unexpected contamination are required in the interests of pollution control. A condition to require a surface water drainage assessment and sustainable urban drainage scheme is necessary in the interests of sustainable drainage.
20. A condition requiring further approval and implementation of details of site levels is required to safeguard the character and appearance of the area. A condition to secure a scheme of refuse storage is necessary for the same reason and in the interests of public health. A condition controlling construction working hours is necessary to protect the living conditions of neighbouring occupiers. A condition to secure a Construction Method Statement is required for the same reason and to ensure highway safety. Conditions dealing with parking provision, the re-instatement of an existing dropped kerb and to prevent surface water discharging onto the highway are also required for highway safety reasons.
21. Conditions dealing with bicycle parking and a travel information pack are required in the interests of sustainable travel. A condition to ensure that the external amenity area is retained and made accessible for that purpose is necessary to ensure satisfactory living conditions for future occupiers.

Conclusion

22. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
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113 Church Hill, Loughton IG10 1QR**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Insofar as it related to the proposed access, the development hereby permitted shall be carried out in accordance with approved plan reference 6009(P)103 Rev G.
- 5) No development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any development or remediation works being carried out. The report shall assess potential risks to present and future occupiers, land and buildings, pets, woodland and service lines and pipes, adjoining land, ground and surface waters, ecological systems, archaeological sites and ancient monuments. The investigation must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination CLR 11' or any subsequent version or additional regulatory guidance.
- 6) Should land contamination remediation works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.
- 7) Following completion of measures identified in the approved remediation scheme, and prior to the first occupation of the development, a verification

report that demonstrates the effectiveness of the remediation carried out must be produced, together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to and approved in writing by the Local Planning Authority. The approved monitoring and maintenance programme shall be implemented.

- 8) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 7.
- 9) An assessment of flood risk, focussing on surface water drainage shall be submitted to and approved in writing by the local Planning Authority prior to commencement of the development. The assessment shall demonstrate compliance with the principles of Sustainable Drainage Systems. The development shall be carried out and maintained in accordance with the approved details.
- 10) No development shall take place until details showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, access ways and landscaped areas has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved details.
- 11) Prior to the commencement of development, and notwithstanding any details shown on the submitted plans, details of the layout and finishes of the refuse storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The works as agreed shall be completed prior to first occupation of the development and thereafter retained free from obstruction solely for the storage of refuse and recyclable materials.
- 12) No construction or demolition works or ancillary operations shall take place outside the hours of 0730 to 1830 Monday to Friday and 0800 to 1300 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 13) Prior to the commencement of development, details of all external lighting to be installed on buildings and within the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to first occupation of the development.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. The parking of vehicles of site operatives and visitors

2. Loading and unloading of plant and materials
 3. Storage of plant and materials used in constructing the development
 4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 5. Measures to control the emission of dust and dirt during construction
 6. Wheel washing or other cleaning facilities for vehicles leaving the site during construction works. The installed cleaning facilities shall be used to clean vehicles wheels immediately before leaving the site.
 7. A scheme for recycling/disposing of waste resulting from demolition and construction works.
- 15) Details of all parking spaces and turning areas shall be submitted to and approved in writing by the Local Planning Authority prior to works to construct any parking area commencing. The works as agreed shall be completed prior to first occupation and thereafter retained for residents parking.
 - 16) Prior to first occupation of the development, the existing redundant vehicular dropped kerb crossing shall be fully reinstated to full height kerbing and footway.
 - 17) There shall be no discharge of surface water onto the highway.
 - 18) Prior to the commencement of the development, details of the siting and design, including security measures of a cycle store with a capacity for a minimum of 10 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The works as agreed shall be fully implemented prior to first occupation of the development and thereafter retained for use by residents of the site.
 - 19) Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
 - 20) The external amenity area shall remain available for use by all residents and shall not be enclosed or sub-divided to limit or prevent access thereto for any resident.
 - 21) Access to any flat roof areas of the building hereby permitted shall be for maintenance or emergency purposes only and any flat roof areas shall not be used as a seating area, roof garden, terrace, patio or similar amenity area.