



Appeal Decision

Site visit made on 9 September 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2019

Appeal Ref: APP/J1535/W/19/3224739
69 Church Hill, Loughton IG10 1QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Reformer Ltd against the decision of Epping Forest District Council.
 - The application Ref: EPF/2040/18, dated 23 July 2019, was refused by notice dated 19 December 2018.
 - The development proposed is demolition of the existing bungalow and replacement with a block of 10 apartments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the decision notice and appeal form. This is because it is more concise than the description of 'development of an underused piece of land and empty house replacing with a new building consisting of 10 apartments', which is shown on the application form. Moreover, it is more precise in that it includes demolition. Notwithstanding the above, I note that the existing dwelling is a part one-storey and part two-storey dwellinghouse, rather than a one-storey bungalow. I will assess the proposal on this basis.
3. Although the emerging Epping Forest District Local Plan (LP2) is at an advanced stage, it is yet to be adopted and its policies may be subject to further change, which limits the weight to be attached to it. The saved policies of the Epping Forest District Local Plan (1998, as altered 2006) (LP1) therefore constitute the development plan for the purposes of the appeal. I will determine the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the area, and
 - b) the living conditions of future occupants, with particular regard to outdoor amenity space,and

- c) whether the proposed development would provide acceptable living conditions for the future occupiers, with particular regard to loss of light, and noise and air pollution from parking.

Reasons

Character and appearance

5. The site comprises a detached part single, part double-storey dwellinghouse and its garden areas. The appeal site is located within a long, broadly rectangular 'block' of land which is bounded by The Uplands and Church Hill roads, and the Meads public footpath. The block rises in a north-easterly direction from Loughton Cricket Club. The site is situated towards the top end of the block, near the crest of Church Hill.
6. The block of land on the south-eastern side of Church Hill, described above, is characterised by predominantly two-storey houses, the majority of which are detached or semi-detached with separation gaps of varying sizes between a large proportion of the buildings. This gives the block of land a noticeably twentieth century, lower-rise suburban character, distinctive from the more varied scale of dwellings on the north-western side of Church Hill which includes a number of larger three-storey apartment buildings highlighted by the appellant. The above factors also distinguish the identified block of land from the more diverse character of development situated around the intersection of Church Hill and St John's Road.
7. The appeal site is one of the largest plots within the identified block of land, and, at approximately 22m wide, the proposed three-storey building would extend across most of the site's width. The building would be around 16m deep, with a maximum roof ridge height of around 11.5m. The proposed building's relatively large combined width, height and depth - compared to other properties to the side and rear, and the prevailing scale within the identified block - would make the appeal building appear substantially bulkier than is characteristic of the block, viewed travelling up Church Hill.
8. The unbroken width of the proposed apartment building, and the higher ridge height of its north-eastern wing compared to the rest of the building, would emphasise the latter's bulk. Moreover, its rectangular front windows, between and in combination with the lines of projecting brick headers, would emphasise the verticality of the building's front facade.
9. The proposed building would be particularly noticeable from the following view-points: the approach to the crest of Church Hill; the rear first floor windows of Nos 56, 60 and 62 The Uplands; the rear gardens of No.73 and the terraced row between Nos 63 and 67a Church Hill; and the front and rear parts of the appeal site.
10. The proposed parking and driveway would occupy more than twice the area of the combined rear and front communal outdoor amenity space (COAS). The smaller proportion of COAS, and the car parking, would erode the prevailing verdant and spacious character of the central area of the identified block of land. This would be perceptible looking down the proposed access drive from Church Hill, the rear of the appeal building and the rear of the house at No 73 Church Hill.

11. The above factors, in combination, lead me to find that the proposed development would have an overly dominant and discordant presence within its immediate setting, and, would sit uncomfortably in the streetscene, between Nos 73 and 67a Church Hill. Moreover, it would undermine the distinctively smaller scale and more traditional suburban character of the block of land on the south-eastern side of Church Hill, described above.
12. I acknowledge the proposed hip end sloping roof near the boundary with No 67a Church Hill, in place of the existing gable end. However, given the substantial proposed increase in overall building bulk on the appeal site - including increased roof ridge heights - the harm identified, in character and appearance terms, would not be significantly lessened by the change in roof profile towards the south-western end of the site, or the difference in ridge height level between the proposed building and the house at No 72 Church Hill.
13. My attention is drawn to a number of developments on other sites¹. However, they differ from the proposal in that they are not located within the same block of land on the south-eastern side of Church Hill, as described above, or the building is of a smaller scale. As such, they are not directly comparable to the appeal proposal. Moreover, I am not familiar with all of the circumstances of the other developments. For these reasons, whilst I have regard to them in my assessment, they carry limited weight
14. I appreciate that the appellant has sought to make efficient use of the site. However, this appears to have had an influence on the substantial scale and discordant proportions of the proposal, which would cause it to be at odds with its context, and does not justify the significant harm.
15. In conclusion, the proposal would result in significant harm to the character and appearance of the area. As such, it would conflict with Policy DBE1 of the LP1, which seeks to ensure that development complements local character.

Living conditions of future occupants

16. Policy DBE8 of the LP1 requires new residential development to provide private outdoor amenity space, usually to the rear of flats, which, amongst other things, would enable reasonable use. The Policy's supporting text in paragraph 15.52 specifies at least 25sq.m of COAS per flat, subject to a number of possible exceptions, which are not engaged in this case. COAS of approximately 100 sq.m to the rear of the apartment building, and around 30sq.m to its front, is proposed. This falls short by just under half the amount which Policy DBE8 requires. As such, the proposed development would not provide much on-site garden space for residents to use, or for soft landscaping of substance. Furthermore, given its size, visibility from the street, steps and ramp, the front COAS area would function more as an entrance than a space for general outdoor recreation. Together, the above factors would substantially limit the usability and amenity value of the proposed on-site COAS.
17. I acknowledge the range of outdoor recreation facilities in the wider area. Nevertheless, these are located between around 400m and 1.7km from the appeal site and not all provide free-to-access public open space. Furthermore, lack of substantial on-site COAS would limit future occupants' enjoyment of health and recreational benefits, which typically stem from day-to-day

¹ As per Appendix 2 of the appellant's Planning Appeal Statement.

appreciation of flora and fauna, interaction with neighbours and relief from harder, built-up townscape. Given the above, the proposed COAS and balconies would not provide adequate outdoor amenity space.

18. I note the planning officer's report considered that the proposed one and two bedroom flats would be less suitable for families, and would therefore generate less COAS requirement than normally envisaged by Policy DBE8 of the LP1. However, I have no certainty that future occupants would not have a need for, and benefit from, fuller COAS provision than that proposed.
19. Together, the above factors lead me to conclude that the proposal would not provide suitable living conditions for future occupants, in respect of provision of outdoor amenity space. As such, it would not accord with Policy DBE8 of the LP1, which seeks to ensure that residential development provides adequate outdoor amenity space.

Living conditions of neighbouring occupants

20. There would be gaps of between approximately 5m and 7m between the side of the proposed building and the south-western flank windows of No.73 Church Hill. The proposed building would have a pitched roof - with a ridge height around 1.3m lower than No 73 - sloping down to the latter's south-western boundary. The Daylight and Sunlight Study (DSS) submitted by the appellant, sets out, amongst other things, that the proposed development would have a low impact on light received by No 73. In respect of this matter, the DSS concludes that the development would satisfy the requirements of the Building Research Establishment's Site Layout Planning for Daylight and Sunlight guide, and I find no reason to take a different view. Together, the above factors lead me to find that the proposal would not significantly reduce receivable daylight and sunlight to the flank windows of No 73 Church Hill.
21. Eight on-site parking spaces are proposed adjacent to the rear garden boundaries of Nos 56, 60 and 62 The Uplands and No 73 Church Hill, with two other on-site parking spaces slightly further away. The proposed access drive would run adjacent to the side boundary of No 67a Church Hill. Vehicles accessing and exiting the parking spaces would introduce some noise and emissions into the central area of the block of land, in which the above properties' gardens are located. However, the proposed perimeter fence and hedging would help to contain these effects. Moreover, the site is within a suburban context, the scale of proposed residential parking is modest, and there is not substantive evidence before me of similar harm arising from parking spaces to the rear of gardens at Nos 63 to 67a Church Hill, nearby.
22. The above factors, in combination, lead me to find that the reduction in tranquillity would be minor, and the proposal is not likely to be significantly detrimental to neighbouring occupants' enjoyment of their gardens, in respect of noise and pollution arising from on-site car parking.
23. Moreover, the Noise Impact Assessment of Vehicle Noise Associated with a Residential Development submitted by the appellant concludes that overall vehicle noise levels at Nos 73 Church Hill and 56, 60 and 62 The Uplands would be reduced due to shielding from the road provided by the proposed building and associated fencing and walls. I find no reason to doubt that this would be so.

24. To conclude on this main issue, the proposal would not significantly affect the living conditions of occupants of Nos 67a and 73 Church Hill, in terms of loss of light, and noise and air pollution from on-site car parking. Furthermore, it would not significantly affect the living conditions of occupants of Nos 56, 60 and 62 The Uplands, with regard to noise and pollution from on-site parking. As such, in respect of the above matters, the proposed development would not conflict with Policy DBE9 of the LP1, which seeks to ensure that development safeguards the living conditions of occupants of neighbouring properties. As such, the above are neutral factors which do not weigh in favour of the proposal.

Other Matters

25. The York Hill Conservation Area (CA) is located 150m away from the proposal. The distance, in combination with intervening residential development and tree cover are such that the proposal would not affect the setting of the CA. The proposal would therefore preserve the character and appearance, and setting of the designated heritage asset. As such, the above is a neutral factor in my assessment.
26. A number of residents of dwellings in the vicinity of site have raised objections concerning matters of privacy, outlook, light and noise, which go beyond the scope of the reasons for refusal. While I have taken these matters into account, they have not altered my overall decision.
27. The proposal would be located within 3km of the Epping Forest Special Area of Conservation (SAC). The Council sets out that - pursuant to its Habitats Regulations Assessment (2019) (HRA) of the LP2 Submission Version (2017) - definition of strategic mitigation measures for residential development within 3km of the Epping Forest Special Area of Conservation (SAC), to avoid harm to the latter, is yet to be finalised. Within the above context, and as I am dismissing the appeal for other reasons, I have not undertaken an Appropriate Assessment of the proposal.
28. I appreciate that the planning officer's report found insufficient harm in relation to character and appearance, and living conditions of future occupants, to justify refusal, but this does not alter my reasoning. In any case, Members reached a different conclusion.
29. I have been referred to informal pre-application advice provided by the Council. However, I have considered the appeal on its planning merits, and such discussions as may have taken place between the Council and the appellant before and during the course of the application process do not alter my conclusions.

Planning Balance and Conclusion

30. The evidence before me indicates the Council cannot demonstrate a five year supply of deliverable housing sites. The appellant states that the supply is currently acknowledged by the Council as being 1.35 years, and the Council has not disputed this. Moreover, the Government's Housing Delivery Test: 2018 Measurement shows that 49% of required housing has been delivered in Epping Forest District in the last three years. The Council considers that the emerging LP2 would deliver a 4.2 year housing land supply. Furthermore, they set out that the current undersupply is due in part to a temporary 'moratorium'

on granting planning permission for development likely to have a significant effect on the Epping Forest SAC.

31. The above factors together indicate that there is a substantial shortfall in supply of deliverable housing sites in the district. Should the 4.2 year housing land supply envisaged by the Council be confirmed through adoption of the LP2, the scale of that shortfall would significantly reduce. However, given that the LP2 is yet to be finalised and adopted, this is not guaranteed. Given the above, there is a substantial need to boost the supply of housing in the district, in line with paragraph 59 of the National Planning Policy Framework (the Framework) and for the purposes of making my decision I have used the appellant's 1.35 years assessment of deliverable housing sites.
32. As such, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out within paragraph 11 of the Framework, would normally apply. The tilted balance would be disengaged if I were to find that there would be unmitigated harm to the SAC. However, having not undertaken an appropriate assessment of the proposal for the purposes of making my decision, I have applied the tilted balance.
33. The proposal would make a modest contribution to local housing supply, in the form of ten new one and two-bedroom apartments - nine of which would, in net terms, be additional to the supply. The proposal's location would be accessible in relation to facilities in Chigwell town centre, and, through local bus and rail services, beyond. The above would bring associated socio-economic benefit during and after construction. Six of the apartments would be to Lifetime Homes standard, which would provide adaptable and accessible accommodation. Nonetheless, I have identified significant harm in relation to the character and appearance of the area, and living conditions of future occupants.
34. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.
35. As such, given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the relatively modest scale of benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal should be dismissed.

William Cooper

INSPECTOR