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## Appeal Decision

Site visit made on 17 June 2020

**by I A Dyer BSc (Eng) MIHT**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 July 2020**

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**Appeal Ref: APP/J1535/W/20/3246752**

**11 Key West Court Block B, 120 High Road, Chigwell IG7 5AR**

- 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 & Mrs Atkin against the decision of Epping Forest District Council.
  - The application Ref EPF/2764/19, dated 18 November 2019, was refused by notice dated 29 January 2020.
  - The development proposed is erection of open-sided car port over car parking spaces.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of open-sided car port over car parking spaces at 11 Key West Court Block B, 120 High Road, Chigwell IG7 5AR, subject to the following conditions: -
  - 1) The development hereby permitted will be retained strictly in accordance with the approved drawings numbers: 370-PL-01 to 03 and 1024/190801.
  - 2) The open sides of the car port hereby permitted shall be permanently retained in that form while the structure remains in situ, no form of enclosure, including any fencing or other means of enclosure shall be inserted into or around the structure without the prior consent of the Local Planning Authority.

### Application for costs

2. An application for costs was made by Mr & Mrs Atkin against Epping Forest District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. At the time of my site visit the car port had been erected and was in use.
4. The Epping Forest District Local Plan Submission Version 2017 has been submitted and subjected to preliminary examination but has not been found sound or adopted. It does not yet form part of the Development Plan and therefore carries limited weight.

### Main Issue

5. The main issue is the effect of the development on the living conditions of the occupiers of Flats 11 and 12 Key West Court Block B with particular reference to outlook.

## Reasons

6. Key West Court is a recently constructed flatted development fronting High Road comprising two blocks and associated external areas. The main block (Block A), containing 10 flats, lies towards the front of the site, whilst a smaller block (Block B), containing two flats, lies behind this. The appeal site is the lower floor flat of the smaller block, and its private grounds.
7. The appeal site contains two car parking spaces lying within an open area which provides for the parking and manoeuvring of cars. Adjacent to the car parking spaces lies a small area of landscaping. The character of the area is predominantly that of a hard surfaced open car parking area with some ancillary landscaping, and this character is derived from its function.
8. The two flats, 11 and 12, within Block B, both have large windows on the elevation facing towards the car port. Flat 12, which forms the upper floor, has Juliet balconies on the two windows closest to the High Road, whilst the third window is fronted by a wraparound balcony.
9. The car port lies directly in front of the middle window of each flat and extends slightly across the frontage of the wraparound balcony. The ridge of the pitched roof is above the floor level of the upper flat.
10. The car port adds an additional structure to the area. However, its dominant impact is in regard to the roof form. This undoubtedly has a visual impact upon the area. However, the scale and materials of the car port are not out of keeping with the surrounding development and its form reflects that of the roofs of the blocks of flats. Whilst the openness of the area is, to a degree, reduced by the roof the open sides of the structure mitigate this reduction somewhat. Overall, the space retains the character and appearance it derives from its use as a car parking area.
11. The proposed car port is visible from and, to a degree, increases the sense of enclosure for, anyone standing at the central window of Flat 11, or within the garden immediately outside these windows. However the view from this window is already partly enclosed by a substantial fence and the open nature of the sides of the car port and positioning of the eaves and roof above the top of the window have limited additional enclosing effect.
12. The roof extends above the level of the bottom of the central window of Flat 12. However, this is below eye level for persons within the room and so any enclosing effect is small. Similarly the views from the windows on the flats to either side are oblique and, in the case of those of Flat 12, below normal eye level. The views from the wraparound balcony of Flat 12 are, again, below normal eye level. Given the above the degree of enclosure experienced by occupiers of either flat resultant from the development are not, in this case, of such a degree for result in material harm.
13. Neighbours have raised issues regarding the change that has resulted from the proposal on their views that encompass the wider development. The presence of the building has, undoubtedly altered these views. The views from the windows and balcony of Flat 12 were, in regard to the area in question, predominantly down onto parked vehicles, or hard surfacing, whereas they are now of the roof. Those from further afield were of parked cars, although with occasional views of the low planting behind. Given the previous appearance of

the area the change is not of such a degree as to be harmful to the living conditions of neighbours.

14. I conclude that the proposal does not result in harm to the living conditions of the occupiers of Flats 11 and 12 Key West Court Block B with particular reference to outlook. The proposal therefore complies with Policies DBE1 and DBE2 of the Epping Forest District Local Plan (1998) in as much as these policies require that new buildings should respect their setting and not have a detrimental effect upon existing neighbouring or surrounding properties in amenity terms. Similarly the proposal would accord with those parts of the National Planning Policy Framework (2019) which seek to achieve well-designed places and create places with a high standard of amenity for existing and future users.
15. Although, for the reasons given above, carrying limited weight, the proposal would also comply with Policy DM9 of the Epping Forest District Local Plan Submission Version 2017 which would require that development proposals take account of the amenity of the development's neighbours and not result in an over-bearing or overly enclosed form of development which materially impacts on the outlook of occupiers of neighbouring properties.

### **Other Matters**

16. Concerns have been raised by neighbours regarding the lack of consultation with other flat owners in Key West Court by the appellants prior to the erection of the car port and referring to the terms under which the properties are leased. Similarly there is dispute regarding the encroachment of the structure into land outside of the appellants ownership. These are matters which lie outside the scope of this appeal.
17. Concerns have been raised regarding the discharge of rainwater from the roof of the car port onto the planting bed adjacent to it and resultant ponding on the bed and adjacent paving. At the time of my site visit there were no signs of ponding in the area, nor excessive staining of surfaces adjacent. There is little substantive evidence before me that rainwater discharging onto the bed, or, in the event of surcharging, joining runoff on the paved area, would result in significant risk to the safety of users of the area or affect the viability of the planting.
18. Apprehensions have been expressed that, should the proposal be allowed, the car port would set a precedent for the erection of similar structures within the wider development. However, any future development proposal would be considered on its own merits.

### **Conditions**

19. I have had regard to the conditions suggested by the Council, on which the appellants have had the opportunity to comment. The development has already commenced and so the standard condition limiting the lifespan of the planning permission is superfluous. However, conditions requiring that the car port has been constructed in accordance with the plans on which this appeal was determined, and thereafter retained in that form are reasonable and necessary to ensure that the structure is not altered so as to change its character and increase its effect on the living conditions of neighbours.

## **Conclusion**

20. For the above reasons I conclude that the appeal should be allowed and planning permission granted, subject to conditions.

*I Dyer*

INSPECTOR