



Appeal Decision

Site visit made on 7 December 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2023

Appeal Ref: APP/J1535/W/22/3292149

Bridge Garage, 24-26 High Street, Ongar CM5 9DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Tony and Bettine Evans of Ongar Bridge Holdings Limited against Epping Forest District Council.
 - The application Ref EPF/1114/21 is dated 20 April 2021.
 - The development proposed is for the demolition of existing car showroom and servicing bays and construction of nine, 2-bed apartments, bin and cycle stores, private open space, parking spaces, provision of foul and surface water drainage and landscaping.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Applications for costs

2. An application for costs was made by Tony and Bettine Evans against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Council have provided an appeal statement indicating their reasons for refusal had a decision been made. Therefore, I have used that information as a basis for identifying the main issues of case.
4. I am aware of a previous application on the same site under Ref EPF/1385/20. I have had regard to that case in my assessment of this appeal.

Main Issues

5. The main issues are:
 - the effect of the proposed development on employment land;
 - the effect of the proposed development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Chipping Ongar Conservation Area;
 - whether an acceptable standard of accommodation could be provided for future occupants, with particular regard to amenity space; and
 - the effect of the proposed development on parking provision.

Reasons

Employment Land

6. The appeal site comprises a parcel of land to the east side of High Street, just north of Ongar Bridge. It is occupied by an operational car sales showroom and repairs garage. The site does not form a designated employment area.
7. Policy E4A of the Epping Forest District Local Plan Alterations (LPA, 2006) seeks to retain employment sites outside of defined employment areas unless these are redundant. In such circumstances, the policy requires evidence in the form of an independent appraisal demonstrating that, amongst other criteria, there is a demonstrable lack of market demand for employment use, that the premises are unsuitable for the operational requirements of modern business and there are significant constraints limiting the site's suitability for employment purposes.
8. In a similar vein, Policy E1 of the Epping Forest District Local Plan Submission Version (LPSV, 2017) seeks to retain and enhance existing employment sites and premises. Where the change of use of such sites is proposed, it must be demonstrated through robust evidence that there is no longer a reasonable prospect of the site being used for the ongoing employment use. In addition, it is set out that where employment land is lost, that mitigation in the form of financial contributions will be required for local employment training and small business growth programmes.
9. Although the site is not formally designated as an employment area and the overall number of staff employed at the site is unknown, the appellant notes that in addition to the two owners who are retiring, there is one full time member of sales staff in the car sales side of the business. It is not set out how many people are employed in connection with the MOT/servicing garage component of the business.
10. Nevertheless, the employment use of the site is not in dispute between the Council and appellant, and the objectives of LPA Policy E4A and LPSV Policy E1 are clear. I have no details before me, such as an independent appraisal, demonstrating that there is a lack of market demand for employment use at the site, that there are significant constraints limiting its suitability for employment purposes, or details of any marketing exercise that has been undertaken for the site to demonstrate a lack of demand.
11. I have some sympathy for the appellant, who has presided over this commercial property for many years and now wishes to retire. I also acknowledge the comments made by the appellant in respect of car sales being increasingly undertaken online and that the site is positioned towards the edge of the town centre where commercial uses begin to peter out. On the other hand, the evidence before me indicates that the business, including its MOT/servicing garage function, has proven to be successful in this location.
12. The appellant argues that the proposed dwellings, which would replace the existing garage and showroom, would appeal to elderly people and consequently provide new jobs related to care and support. However, there is no substantive evidence before me to demonstrate that this would be the case were the current function to be lost. That future occupants may work from home does not provide suitable justification for the loss of an employment site.

13. Overall, the evidence before me does not clearly demonstrate that there is a lack of market demand for an employment use at the site, or that the premises are unsuitable for ongoing employment purposes. The proposed development would therefore be contrary to the relevant provisions of LPA Policies CP1 and E4A and LPSV Policies E1, T2 and SP2 which, amongst other objectives, seek to retain and enhance employment sites in the district.

Character and appearance

14. The appeal site is occupied by a car sales showroom and repairs garage, consisting of a modern building and large forecourt area. The surrounding area comprises properties occupied by commercial and residential uses, of a varying design and period. Despite this variation, these surrounding properties are generally consistent in their modest, predominantly two-storey scale. Buildings generally become more consolidated and of a larger scale further north along High Street.
15. The site falls within the Chipping Ongar Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies, insofar as the appeal is concerned, in its arrangement of buildings along High Street, enclosing the narrow and gently curving road. These domestic and commercial buildings are interspersed by occasional prominent public buildings. There are views from the town towards the open countryside beyond. This, and the range and use of traditional building materials throughout the CA, also contribute to its significance.
16. The existing showroom and garage buildings are set back considerably from High Street. This arrangement, and the gap formed, is somewhat at odds with the predominant building line along High Street. However, it provides an open setting and entrance to the CA that allows views up through High Street from the south and, from the north, towards the open and verdant Cripsey Brook and beyond.
17. I acknowledge that the proposed development has been designed with some sensitivity to prevailing design features. This includes window proportions, chimney and gable features and materials, as well as plot width. However, the scale of some of those features, particularly the roof profiles, are far in excess and out of proportion with the neighbouring properties. The roof profile of the proposed development would be large and prominent, with a ridge level well above that of neighbouring properties to the north. The excessive scale of the roof profile is emphasised by the crown roof design to the south-west corner.
18. The combination of the above, with the proposed two to two-and-a-half storey height of the development, would fail to respect the local context in terms of scale, bulk and massing. The existing properties along this part of High Street are more modest in their scale and appearance, generally formed of semi-detached properties and short terraces, rising to two-storeys high. Whereas the established built form in High Street gradually becomes more consolidated and greater in scale to the north, the proposed development introduces a greater scale towards the south. This is at odds with the prevailing pattern of development here.

19. Taken as a whole, the proposed development would be harmful to the character and appearance of the area, and that of the CA, neither preserving nor enhancing it. Whilst harmful, I consider the proposed development to give rise to 'less than substantial' harm. In line with the requirements of paragraph 202 of the Framework, this harm must be weighed against any public benefits.
20. There are clear benefits to the scheme from the perspective of contributing to housing supply in the borough, as well as the social and economic benefits this would bring during both construction (through employment) and the bringing about of trade to nearby services and facilities upon occupation. I also note that the site is located in a reasonably sustainable location, near to existing services and that sustainable design and construction methods would be used. However, these benefits, both individually and cumulatively, would be reasonably limited and I do not consider the public benefit to outweigh the harm I have identified above.
21. My attention is drawn to an appeal decision at Daneley Court Nursing Home, Buckhurst Hill, where bulk is referenced. Nevertheless, the context of that site is different to the appeal site, particularly in respect of it being in a different settlement, and I do not find the two sites to be directly comparable. I have considered the proposed development based on the plans before me and my site observations.
22. I acknowledge the comments raised by the appellant in respect of density and plot coverage. However, the support for increased densities in the development plan is not at the cost of design quality and the protection of heritage assets. That the plot coverage of this site is less than some other schemes throughout the district does not outweigh the harm identified.
23. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area, and that of the CA, failing to preserve it. The proposed development would be contrary to the relevant provisions of Policies HC6 and HC7 of the Epping Forest District Local Plan (LP, 1998), LPA Policies CP2 and CP7 and LPSV Policies DM7 and DM9. These policies, in summary, seek to encourage high quality design in development and protect heritage assets.

Standard of accommodation – future occupants

24. LP Policy DBE8 sets out that new residential development will be expected to provide private amenity space. This should usually be at the rear, be directly adjacent to and easily accessible from buildings, be of a reasonable shape and size, have an aspect which ensures that reasonable levels of sunlight are received and be private.
25. Balconies would be provided at first floor level serving flats 5, 6 and 8. A communal amenity space measuring approximately 255sqm is provided for the remaining flats. This predominantly runs along the southern boundary of the site and as such would likely receive adequate levels of sunlight. Based on the submitted plans, it appears that three of the nine flats would be provided with direct access to this communal space. Occupants of the remainder of the flats would be required to exit their flats and the building to access the communal space. This would be highly inconvenient and would likely result in limited use of the space by those occupants. Accordingly, I conclude that the proposed provision of amenity space is unacceptable.

26. There is no dispute between the Council and appellant in respect of the amount of communal space provided, internal space standards proposed, building regulations requirements, the provision of lift access, studies or access to bin and cycle storage facilities. I have no reason to disagree with those findings. I also note the proposed acoustic fence to protect the users of the communal space from road noise and overlooking from the street, and that tree coverage would be retained and enhanced. Nevertheless, that those standards would be met, and features provided, does not outweigh the harm identified in respect of amenity space.
27. Consequently, the proposed development would fail to provide a satisfactory standard of accommodation for future occupants, contrary to the relevant provisions of LP Policy DBE8 and LPSV Policy DM10, which require good quality and accessible private amenity space to be provided in development.

Parking provision

28. LP Policy ST4 seeks to prevent excessive degrees of traffic congestion and avoid highway safety impacts from development. LP Policy ST6 seeks to ensure appropriate parking provision in development. This is in a similar vein to the objectives of LPSV Policy T1, which sets out that development should minimise the need to travel, promote opportunities for sustainable transport, provide layouts with appropriate parking and servicing provision and which do not result in unacceptable increases in traffic generation or compromise highway safety.
29. The Council, in its officer report, contends that the layout of the proposed parking area, which would provide parking bays of 2.5m wide, would lead to overspill parking on nearby streets. There is no objection within the officer report to the number of parking bays provided.
30. The highway authority has set out in its consultation response to the proposed development that there is no objection from a highway perspective. It is set out that the proposed development would result in significantly less vehicle movements compared with the existing site and that parking provision, which has been increased since a previously refused planning application, is acceptable. I have no reason to disagree with those findings.
31. I have no substantive evidence before me to demonstrate that the provision of parking bays of 2.5 metres wide would result in harmful levels of overspill parking in streets outside the site. Furthermore, I note the appellant's agreement, in the event that the appeal was to be allowed, to the provision of travel information packs to future occupiers. This would encourage the use of sustainable transport in this reasonably sustainable location, within walking distance or a short bus ride to day-to-day services and facilities.
32. Consequently, the proposed development is located in a sustainable location and would have an acceptable effect on parking provision. This would be in accordance with the relevant provisions of LP Policies ST4 and ST6 and LPSV Policy T1, which in summary seek to ensure development provides appropriate parking and is sustainably located.

Other Matters

33. I note the support of neighbours and others to the scheme, and that it would meet other planning policy objectives. However, letters of support and the lack

of harm identified in other respects does not outweigh the harm identified above or lead me to an alternative conclusion on the main issues.

34. In respect of the Epping Forest Special Area of Conservation, Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent must make an appropriate assessment of the implications of the plan or project for that site. Given my reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard, and even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

Conclusion

35. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR