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# Appeal Decision

Site visit made on 9 May 2023

**by Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

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

**Decision date: 10 July 2023**

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**Appeal Ref: APP/J1535/W/22/3299091**

**Wayback, 179 Lambourne Road, Chigwell, IG7 6JU**

- 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 Amarjeet Whaid against the decision of Epping Forest District Council.
  - The application Ref EPF/2607/21, dated 29 September 2021, was refused by notice dated 30 March 2022.
  - The development proposed is demolition of the existing dwelling and erection of replacement dwelling and ancillary garden outbuilding.
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## Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling and erection of replacement dwelling and ancillary garden outbuilding at 179 Lambourne Road, Chigwell, IG7 6JU in accordance with the terms of the application, Ref EPF/2607/21, dated 29 September 2021, and the plans submitted with it, subject to the conditions included in the schedule to this decision.

## Application for costs

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

## Procedural Matters

3. On 6 March 2023 the Council adopted the Epping Forest Local Plan 2011-2033. I wrote to both parties seeking their comments on the replacement policies on which the Council now relies. This decision takes account of the new policies and the comments received.
4. In the appellants statement a revised site plan, 062-SK-002, was submitted. I have not accepted this as interested parties have not been able to consider it. This could have been contrary to the Wheatcroft Principles<sup>1</sup>.

## Main Issues

5. The main issues are:
  - The effect of the proposal on Hainault Hall as a designated heritage asset, and

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<sup>1</sup> Sir Bernard Wheatcroft JPL 1987

- The effect of the proposal on the character and appearance of the area.

## **Reasons**

### *The effects of the appeal scheme on Hainault Hall*

6. In respect of the impact of the proposed scheme on the setting of this listed building, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers, to have regard to the desirability of preserving listed buildings or their setting. The Framework defines 'setting' as the surroundings in which a heritage asset is experienced. Policies DM9 and DM10 of the Epping Forest District Plan 2023 require development to make a positive contribution to place and respect the living conditions of surrounding properties.
7. Hainault Hall (the Hall) is a Grade II listed building which dates from the eighteenth century with extensions and alterations dating from the nineteenth century (List entry: 1111204). Its symmetrical front elevation comprises stucco doorcase with pedimented head, splayed stone steps, open pediment, full height projection with moulded stone string course above with red tiled mansard with two dormers.
8. The Hall's setting is largely framed through its orientation to the public open space which lies on the opposite side of Lambourne Road. This frames views and provides a context for its imposing frontage. The Hall has been compromised by housing development located to its rear. The appeal site shares rear and side boundaries with the Hall.
9. Whilst the appeal scheme is larger than the existing dwelling its location away from the listed building significantly minimises its impact on the setting of the listed Hall. Although a large garden/playroom would be located along part of the shared boundary with the Hall, its height would not adversely impact on this its setting.
10. Whilst I am not bound by the decisions of my Inspector colleagues, I acknowledge the design of the appeal scheme before me differs markedly from that allowed on appeal<sup>2</sup>. The bulk of the proposed dwelling in that scheme would have extended across the site closer to the shared boundary with the Hall than the appeal scheme before me.
11. For these reasons, I conclude that the appeal scheme is not contrary to policies DM9 and DM10 and that the appeal scheme would preserve the setting of the Hall and cause no harm to its significance and special interest. I therefore find that there is no conflict with Section 66(1) of the Planning (Listed Buildings and Conservation) Act 1990.

### *Character and appearance*

12. Residential development surrounding the site comprises a variety of architectural styles dating from the twentieth century with a few exceptions including the Hall and the two properties, Harsnett and School Cottage which lie between the site and Lambourne Road and which it is understood date from the turn of the last century.

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<sup>2</sup> APP/J1535/W/20/3254429

13. The existing dwelling has a cottage style comprising 1.5 stories with materials of brick tile and render and in part timber fascia. It has a large area of hardstanding to the frontage and garden laid to grass at the side.
14. The proposed scheme would have a larger footprint and be taller than the existing building involving 2 storeys. The main elevation to Lambourne Road includes two gables to its front elevation. In contrast to the existing building elevational treatment would be completed in glazing and Portland stone.
15. The proposed dwelling has been set away from the boundary and this would overcome concerns expressed by an interested party regarding the dominance of the proposed scheme on their living conditions. All windows in the west elevation are proposed to be obscured. This could be secured by condition.
16. There is sufficient space around the site to allow landscaping to a design which could be in accordance with the character of surrounding development. This could be controlled through planning condition.
17. The site is set back from the road frontage with only its access and forecourt close to the road with the existing building set well within the site. The proposed building broadly maintains this form of development and would not adversely impact on the frontage of Lambourne Road.
18. Policies DM9 and DM10 of the Epping Forest District Plan 2023 require development to make a positive contribution to place and respect the living conditions of surrounding properties.
19. Policy DM3 refers to Landscape Character, Ancient Landscapes and Geodiversity. I do not find that it is directly applicable to the issues raised by this appeal.
20. Given the varied architectural character of the surrounding area I find that the design of the appeal scheme would not conflict with these policies given the varied form of development within the local area. There would be sufficient areas around the proposed dwelling to enable landscaping. This is a matter which could be controlled through a condition.

## **Conclusions**

21. For the reasons given above, the representations received and the Development Plan when read as a whole the appeal is allowed.

## **Conditions**

22. I have considered the planning conditions suggested by the Council, the Planning Practice Guidance and the Framework together with the appellants comments.
23. I have included reference to the plans on which this decision is based for reasons of certainty (2). I have imposed conditions (4, 5 10 and 11) in respect of tree protection, landscaping and external materials to protect the character and appearance of the area.
24. Other conditions are imposed to control the activities arising from construction activities and are required to protect the living conditions of surrounding occupiers. These include conditions regarding the provision of wheel washing facilities, construction and delivery times (14 and 15).

25. Several conditions have been imposed designed to maximise resources and protect the environment regarding water usage and the inclusion of electric vehicle charging points (7 and 9).
26. Conditions designed to protect the living conditions of surrounding occupiers in respect of retention of privacy are required (8 and 12). Conditions regarding wider environmental issues relating to the scheme hereby permitted including the protection of surrounding land from flood risk, surface water, contamination and the protection of the site's ecology (7, 3, 13 and 6)
27. Finally, I accept the imposition of the condition as suggested by the Council in respect of the removal of permitted development rights. Although the PPG advises that the removal of these rights would not normally pass the test of reasonableness, I find that the site's proximity to surrounding development merits these controls (16).

*Stephen Wilkinson*

INSPECTOR

## **Schedule of Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: L9523, P-000, P-001, P-002, P-003, P-004, P-005 Rev P01, P-006 Rev P01, P-007 Rev P01, P-008 Rev P01, P-009 Rev P01, P-010 Rev P01, P-011 Rev P01, P-014 and P-012 Rev P01.
3. Prior to preliminary ground works taking place, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be provided on site prior to the first occupation and shall be retained for the lifetime of the development.
4. Tree protection shall be installed as shown on Tim Moya Associates 'Tree protection for demolition' drawing numbers 191109-P-12 and 'Tree protection for construction' drawing number 191109-P-13 (both dated December 2021) prior to the commencement of development activities (including any demolition). The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports.
5. Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
6. The development hereby permitted shall be carried out in accordance with the details set out in chapters 8 & 9 of the Preliminary Ecological Appraisal by Tim Moya Associates (dated January 2020). The scheme

shall be implemented in full prior to the occupation of the development hereby approved, and so retained.

7. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
8. Prior to first occupation of the building hereby permitted the windows in the flank elevation (facing Crosby Court) at first floor level and above, shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of that/those windows that is less than 1.7 metres above the internal floor level of the room in which it is installed shall be capable of being opened. Once installed the obscure glass shall be retained thereafter.
9. Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point shall be installed and retained thereafter for use by the occupants of the site.
10. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those specified on the approved plans.
11. If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
12. Access to the flat roof over the extension hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a seating area, roof garden, terrace, patio or similar amenity area.
13. The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were

satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

14. Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
15. No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development generally permitted by virtue of Classes A, AA, B, C, D & E of Part 1 of Schedule 2 shall be undertaken without the prior written permission of the Local Planning Authority.