



## Appeal Decision

Site visit made on 12 June 2017

by **Graham Chamberlain BA (Hons) MSc MRTPI**

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

Decision date: 28<sup>th</sup> June 2017

**Appeal Ref: APP/J1535/W/17/3167348**

**Royal Oak, Forest Road, Loughton, Essex IG10 1EG**

- 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 Steve Hancocks against the decision of Epping Forest District Council.
- The application Ref EPF/2042/16, dated 26 July 2017, was refused by notice dated 23 November 2016.
- The development proposed is the partial demolition and extension of the former royal Oak public house and change of use to provide 5 flats, demolition of 171 Smarts Lane and redevelopment for 9 flats, and associated parking and landscaping.

### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr Steve Hancocks against Epping Forest District Council. This application will be the subject of a separate Decision.

### Preliminary Matters

3. The appellant has submitted a report prepared by Iceni Projects as a response to the Council's third and fourth reasons for refusal. This report has not amended the appeal scheme and both the Council and interested parties would have had an opportunity to review it. As a consequence, I have taken this report into consideration in my assessment.
4. The appellant also provided an alternative elevation with his final comments with the windows originally proposed to face 150 Forest Road substituted for roof lights or repositioned. Neither the Council nor interested parties would have had an opportunity to comment upon the proposed alterations and may not have seen them. Nor are they minor changes in the context of the proposal and the matters in dispute. As such, it would be unreasonable for me to accept the alterations or impose them through a planning condition. I have therefore based my assessment on the drawings that were before the Council.
5. During my site visit, and in addition to inspecting the appeal property, I observed the appeal site from 150 and 152 Forest Road and 175 Smarts Lane.

### Main Issues

6. The main issues in this appeal are the effect of the proposed development on:

- The character and appearance of the area;
- The living conditions of the occupants of 150 and 152 Forest Road and 175 Smarts Lane with particular reference to visual effect, outlook and privacy.
- Highway safety, with particular reference to parking and deliveries.

## Reasons

### *The effect on the character and appearance of the area*

7. The appeal site encompasses the Royal Oak Public House and 171 Smarts Lane. The Royal Oak is currently closed and No 171 is unoccupied. The appeal site has a frontage to both Forest Road and Smarts Lane. Both of these streets are residential in character and are characterised by two storey properties of a period scale and appearance. Some properties nearby, including Staples Road and Forest View Road, have accommodation in the roof but this is not a common feature of the area surrounding the appeal site. The property at 161 Smarts Lane is arranged over three floors but this is a local anomaly. The appeal site is not viewed in the context of the properties in the Shaftesbury.
8. The dwellings in Forest Road are located close to the back of the pavement with small front gardens. As such, there is a tight urban grain. The tight grain is also evident in Smarts Lane but this street is more open due to the presence of Epping Forest.
9. The Royal Oak is an imposing and attractive locally listed building which is viewed as an integral and important part of the street scene of Forest Road. Its retention as part of any redevelopment of the appeal site is therefore necessary. The proposal would reinstate aspects of the building's character by, for example, removing the existing painted finish and demolishing insensitive extensions. However, the building would also be the subject of a rear extension that would obscure a gable feature. The proposal would also result in the demolition of an outbuilding, the date and origins of which have not been clarified. Moreover, a large and seamless side extension is proposed and this would disrupt the original form of the building. The addition would however, echo many of the architectural features of the public house including the chimneys, beams, fenestration and jetty. On balance, the proposal would preserve the significance of the Royal Oak but it would not enhance it.
10. Behind the Royal Oak it is proposed to erect an 'L' shape block of nine flats. The flats would have a frontage onto Smarts Lane that would be reminiscent of a terrace of three properties. In between this 'terrace' and the Royal Oak would be a boarded and brick linking element intended to appear as a subservient courtyard/service range to the Royal Oak. This design concept is set out in the Design and Access Statement and is sound one. Nevertheless, I find its execution in the appeal scheme to be unconvincing.
11. This is because the nine flats behind the Royal Oak would be arranged over three floors albeit with much of the upper floor accommodation in the roof space. Nevertheless, the consequence of this is that the scale of the flats would be greater than that of the Royal Oak, which is currently one of the taller buildings in the area. This would result in the new flats having a lack of harmony with, and subservience to, the Royal Oak and thus an awkward and discordant juxtaposition in the street scene.

12. Due to its excessive ridge and eaves height, the three storey 'tower' element directly behind the Royal Oak would be a particularly stark and incongruous element of the proposal which would be harmfully apparent from Forest Road. It would also jar with the grain of the scheme, which otherwise steps down from Smarts Lane with the fall of the land towards Forest Road.
13. A matter of particular importance is that the nine proposed flats would be taller and bulkier than many of the modest semi-detached and terraced houses nearby. They would also tower above the adjacent Victoria Tavern. In this respect the appellant's CGI in Appendix 7 of his statement demonstrates that the flats would be unduly apparent in views towards the Victoria Tavern.
14. The Council have also raised concerns with the overall depth of the nine flats behind the Royal Oak. The proposal would result in a considerable uplift in built form within the appeal site but I am satisfied this could be achieved with an adequate articulation of the massing and an appropriate hierarchy to the form, which properly respects the narrow widths and modest heights of buildings nearby. As such, the overall depth of development need not be a concern.
15. However, the eastern elevation, when viewed in the context of nearby buildings, would have excessive proportions in the height and width of individual sections. In particular, Plots 8 and 10, the corner plots, would be uncharacteristically deep in plan and this would harm the street scene of Smarts Lane. The boarded sections would also be very wide with a horizontal emphasis. Consequently, whilst the overall depth of the proposal could be acceptable, the depth of the individual sections before me would not respect the narrow pattern and form of development surrounding the appeal site.
16. When viewed from the north-west looking east along Smarts Lane the proposal would be softened by retained trees and would be lower than No 175. Thus, it would not harm the setting of Epping Forest. The proposal would also be pedestrian friendly and would incorporate active frontages. In these respects the proposal would respond to the Essex Design Guide. However, these positive aspects would not overcome the fundamental limitation that the proposal would be too tall and bulky when viewed from much of Smarts Lane, Forest Road, the right of way through the site and nearby properties.
17. In coming to this view I note that the Council's Conservation Officer supports the proposal and suggested the newly constructed element would appear as a subservient 'service range'. I find it difficult to reconcile these comments with what is proposed as the nine new build flats would be taller and bulkier than the Royal Oak. As a result, I do not share the view of the Council's Conservation Officer.
18. I therefore conclude that the appeal scheme would significantly harm the character and appearance of the area. It would therefore be at odds with Policies CP2, CP7 and DBE1, of the Epping Forest District Local Plan 1998 and its Alterations in 2006 (LP), which seek developments that preserves and enhances the townscape and is respectful of the local setting in terms of scale, proportions, massing and height. These policies pre date the National Planning Policy Framework but they are nevertheless consistent with it, particularly Paragraphs 17 and 58, and can therefore be afforded significant weight.

*The effect on living conditions*

19. 150 Forest Road (No 150) is a single storey dwelling with a modestly size rear garden located along the north western boundary of the appeal site. The existing rear extension of the Royal Oak is in close proximity to the boundary with No 150, as is the existing single storey outbuilding in the garden of the public house. Both these structures would be demolished as part of the appeal scheme. However, they do not currently inhibit the outlook from No 150 in a significant way and therefore their removal is only a marginal benefit which would be outweighed by the effects of the proposal.
20. If the appeal scheme were implemented then these modest structures would be replaced by a flatted scheme with accommodation arranged over three floors. The flats would be set further back from the boundary with No 150 than the existing structures but they would be notably taller, being higher than the Royal Oak. This would result in an unreasonably dominant visual impact upon the outlook from the garden and rear conservatory of No 150. The appeal scheme would have an unavoidable and overbearing presence even though there is an intervening boundary wall.
21. Additionally, the elevation facing No 150 would have upper floor windows and roof windows facing the property. The height and number of windows would result in the very real perception of being over looked, even though the windows could be obscured or positioned at a high level relative to the internal floor. Plot 14 would also be positioned with a direct line of sight into the garden and conservatory of No 150. The distance between elevations would be in excess of the guidelines in the Essex Design Guide but the property would be on higher ground and this impact needs to be considered in combination with the perceived overlooking from the other flats. Consequently, the occupants of No 150 would feel overlooked in every part of their garden and conservatory. The proposal would therefore harm the living conditions of the occupants of No 150 through its visual impact and from a strong perception of reduced privacy.
22. The impact on the occupants of No 152 would be less marked as this property is further from the proposed flats, benefits from a larger garden and is well screened by landscaping and intervening structures. Nevertheless, the windows in the roof and top floor of the appeal scheme would result in a perception of being overlooked when in the amenity space directly behind the rear elevation of No 152, where there is currently an area for sitting out. The impact on the perception of privacy would therefore be similar to that which would be experienced by the occupants of Plot 150.
23. The swimming pool building within the garden of No 152 has windows orientated to face south east. Plots 13 and 14 would inhibit the outlook from these windows. However, the swimming pool building is an outbuilding as opposed to primary habitable accommodation. The reduction in outlook from this building that would occur could therefore be tolerated, especially so as the outlook in other directions would remain unimpeded.
24. The proposed parking area for Plots 9-15 would wrap around the garden of No 150 and this could result in noise and disturbance to neighbours. However this needs to be considered in the context of the historic pub use, which would have had activity in the rear garden including vehicles parking and manoeuvring. Consequently, a refusal of the appeal scheme based on this impact could not be reasonably justified.

25. Similarly, a parking area for the occupants of Plots 16-18 is planned to the side of 175 Smarts Lane. The vehicle movements originating from these spaces would be notable to the occupants of this property but there is an existing driveway and garage in this location and therefore the proposal would not introduce vehicles into an area where there are none currently. As such, the proposal would not be harmful as a result of noise and disturbance from vehicular movements.
26. The flats that are proposed to front onto Smarts Lane would be visible from the sitting room, kitchen, bedroom and garden of 175 Smarts Lane (No 175). However, the intervening gap and orientation of the proposal would be sufficient to ensure the outlook from No 175 would not be unreasonably dominated. Nevertheless, the flats nearest to No 175 (Plots 13 and 14) would be arranged over three floors. The flats would be set back from Smarts Lane but angled to face south west. The occupants of Plot 14, the upper floor flat, would therefore have a line of sight from their living room towards the living room of No 175. This would not be a direct line of sight. Nevertheless, it would be an inevitable consequence that the future occupants of Plot 14 would be able to incidentally see into the living room of No 175 at an unreasonably close range. I therefore find that the occupants of No 175 would suffer a notably reduced level of privacy.
27. I therefore conclude that the appeal scheme would result in a significant and excessively harmful visual impact upon the outlook from No 150. It would also result in significant harm to the actual or perceived privacy of the occupants of Nos 150, 152 and 175. The proposal would therefore be contrary to the requirements of Policy DBE9 of the LP, which seeks to prevent an excessive loss of amenity at neighbouring properties. This is consistent with Paragraph 17 of the Framework and therefore Policy DBE9 can be afforded significant weight.

#### *The effect on highway safety*

28. During my site visit I observed that the area appears to be suffering from parking stress. I was unable to park in either Smarts Lane or Forest Road due to the level of on street parking and it was very apparent that vehicles parked inconsiderately with many mounting the pavement. It was also very noticeable that the traffic found it difficult to pass because there were few places to pull in and the carriageway had been narrowed by the on street parking. I accept that my visit was a snap shot in time but the representations from interested parties would suggest this is a common occurrence.
29. The appellants' parking beat survey demonstrates that the average parking stress on surrounding streets is 76% on the two weekday nights surveyed. It is unclear at what level the parking stress is considered to become a notable concern. However, the Council point out that parking stress in Forest Road was 97.7% and daytime parking stress was not considered. The proposal would also marginally reduce the level of on street parking along Forest Road. It is therefore difficult to conclude that the area is not suffering from parking stress. The consideration of a residents parking scheme adds further weight to such a finding. The appeal scheme would have the potential to compound the existing parking stress if it provides insufficient off street parking.

30. The relevant parking standard<sup>1</sup> is one space per one bedroom property and at least two spaces for properties with two bedrooms and more. This would result in an overall parking requirement of 34 parking spaces. The appeal scheme would provide 18 spaces for the 14 flats proposed, which is one space per dwelling with four visitor spaces.
31. The appellants suggest that this level of parking is sufficient as the parking standards allow for flexibility. The standards state that for main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. A main urban area is defined as having frequent and extensive public transport and cycling and walking links. The appeal site, whilst towards the edge of Loughton, is approximately a 7 minute walk from an underground station and 2-3 minute walk from bus routes and local amenities in Loughton High Road. The appeal site is therefore in a main urban area where a reduction in parking standards may be considered.
32. Such a consideration needs to turn on the merits of the proposal. The area is experiencing parking stress but the close proximity of public transport and services would suggest that future occupants of the appeal scheme would not be reliant on a car for access to work and facilities. However, it does not necessarily follow that the proximity of services and public transport suppresses car ownership. Future occupants of the appeal scheme may own a car but use it infrequently. If households have multiple cars then this could result in on street parking that would compound the existing parking stress.
33. In this respect car ownership data is significant. The appellant has considered the 2011 census data and this suggests that the average car ownership of flats, maisonettes and apartments in the ward was 0.79. I have no reason to doubt this figure or believe it is now significantly out of date. Such a level of car ownership would suggest a parking level of one space per flat with four visitor spaces would be a sufficient level of parking in this instance.
34. Therefore, to summarise, the appellant has not conclusively demonstrated that the area is not suffering from parking stress. From what I observed I am content to take a precautionary approach and assume the area is suffering from daytime and evening parking stress. The appeal scheme would not provide parking to meet the usual parking standards but the standards permit a relaxation in main urban area, which the appeal scheme is within. Significantly, car ownership levels for the residents of flats in the ward average less than one space per household. The appeal scheme would provide one space per household and generous cycle parking facilities. In light of the parking standards in built flexibility and the local car ownership levels, I am satisfied the appeal scheme would provide adequate off road parking in this instance. As a consequence, the appeal scheme is unlikely to result in harm to highway safety derived from on street parking.
35. The Council's second concern in respect of highway safety relates to a perceived absence of space for delivery vehicles to turn. The appellant has provided a swept path analysis that demonstrates that some transit type vans would be able to turn within the site and exit in a forward gear. Be this as it may, substantive evidence has not been provided to suggest that most deliveries take place using this type of vehicle. As such, it is conceivable that larger vehicles delivering goods to residents of the appeal scheme would be

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<sup>1</sup> See Essex County Council parking Standards – Design and Good practice 2009

unable to turn within the appeal site. This could result in vehicles parking in Forest Road and Smarts Lane and perhaps reversing onto the latter if unable to turn within the site. The appellant suggested the number of deliveries would be infrequent but again, sufficient evidence has not been provided to support this proposition.

36. Nevertheless, I accept that the current situation is that most deliveries in the area would result in delivery vehicles parking in the street. Private driveways are not common place. Whilst this may result in some short term inconvenience, substantive evidence has not been provided to suggest this has had a persistent detrimental impact on highway safety or the flow of traffic.
37. It is unlikely that emergency vehicles and bin lorries would be able to conveniently access the appeal site. However, this is not uncommon in schemes of the size proposed. Moreover, substantive evidence has not been provided to suggest the flats could not be adequately reached from the public highway in the event of an emergency or that the bins could not be collected from Smarts Lane or Forest Road. The proposed refuse arrangements were agreed with the Council's Waste Officer.
38. It is important to note that the Local Highway Authority raised no objections to the appeal scheme and I do not have substantive or technical evidence to suggest I should go against this independent expert view.
39. Taking the preceding paragraphs together, I am satisfied the proposal would not result in harm to highway safety. The proposal would therefore adhere to Policies ST6 and ST4 of the LP, which seek to secure adequate parking levels and development that would not be detrimental to highway safety in a general sense. This is consistent with Paragraph 32 of the Framework.

## **Other Matters**

40. The proposal would result in the permanent loss of a public house, which is a community asset. However, the appellant has suggested the public house had been unviable and there is nothing before me to indicate this is an inaccurate assertion. Moreover, other public houses are located nearby and therefore the community would retain easy access to such facilities. As a consequence, this is not a matter that would weigh against the appeal scheme. There is nothing of sufficient substance before me to suggest surface water drainage could not be managed through a scheme to be approved though a planning condition had the proposal been otherwise acceptable.

## **Planning Balance and Conclusion**

### *Planning balance*

41. An application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the appellant has suggested that the Council is currently unable to demonstrate a five year housing land supply as required by the Framework. The Council have not disputed this. The housing policies within the development plan are therefore out of date. In such circumstances Paragraph 14 of the Framework is engaged. This directs that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

42. The appeal scheme would significantly harm the character and appearance of the area and the living conditions of neighbours. These impacts would be contrary to the relevant development plan policies, which I have found to be consistent with the Framework. These are adverse impacts to which I give significant weight. This is especially so as substantive evidence has not been provided to suggest these are inherent failings that could not be resolved.
43. The appeal scheme would deliver fourteen homes (gross) on a previously developed site earmarked for a housing allocation. It would also contribute towards housing choice in the area and the local housing supply. Fourteen homes would be a modest contribution towards the Council's inadequate housing land supply. The appeal site is well related to local services and facilities. In this respect it has been allocated for development in the emerging local plan. As a result the proposal has the potential to benefit the local economy through construction jobs and from the spending power of future occupants. However, the benefits to the construction industry would be time limited and it is unclear whether local facilities are struggling and would thus benefit significantly from increased patronage. Taken together, I afford the benefits of the proposal moderate weight.
44. The retention of the locally listed building is not a benefit of the appeal proposal as this is to be expected from an acceptable scheme. I have already concluded that the proposal would preserve its significance but not enhance due to the scale of the proposed extension amongst other things. As such, this is a neutral matter in the overall planning balance. For similar reasons, the retention of protected trees is to be expected and is also a neutral matter in the balance. The absence of harm in any other respects, including highway safety, is also a neutral matter as an absence of harm is not a benefit.
45. The adverse impacts of the appeal scheme are matters of significant weight whereas the benefits are of moderate weight. Consequently, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh its benefits. As such, the proposal would not be sustainable development for which the Framework carries a presumption in favour.

#### *Overall Conclusion*

46. The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

*Graham Chamberlain*

INSPECTOR