

**Report to District Development Control
Committee**

**Report Reference: DEV-016-2015/16
Date of meeting: 2 December 2015**



**Epping Forest
District Council**

**Subject: Planning Application ref EPF/2198/15 – Dragons, Nursery Road,
Loughton - Proposed new dwelling on the site of previous tennis
court.**

Responsible Officer: Nigel Richardson (01992 564110)

Democratic Services: Gary Woodhall (01992 564470)

Recommendation(s):

- (1) That planning permission is granted subject to the following conditions:
1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
 2. The development hereby permitted will be completed strictly in accordance with the approved drawings nos: Site Location Plan, 261-EX-01, 261-EX-02, 261-PL-02, 261-PL-03, 261-PL-04, 261-PL-05, 261-PL-06, 261-PL-07, 261-PL-08, 261-PL-09, 261-PL-10, 261-PL-11.
 3. The external finishes of the development hereby permitted shall match those as submitted:
 - Patinated Copper;
 - MARSA stone (cladding); and
 - Split Slate (cladding).
 4. No construction works above ground level shall take place until documentary and photographic details of the types and colours of the proposed hardstanding have been submitted to and approved by the Local Planning Authority, in writing. The development shall be implemented in accordance with such approved details.
 5. Additional drawings that show details of proposed new windows and doors by section and elevation at scales between 1:20 and 1:1 as appropriate, shall be submitted to and approved by the LPA in writing prior to the commencement of any works.
 6. No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to an approved in writing by the Local Planning

Authority. These works shall be carried out as approved. 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.

- 7. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.**
- 8. A flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.**
- 9. No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.**

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]

- 10. Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.**

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]

- 11. Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.**

[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]

- 12. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance**

programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.

13. In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.
14. All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
15. No development shall take place until details of levels have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
16. No development shall take place until details of surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
17. Prior to first occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.
18. Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.
19. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council.

20. **There shall be no discharge of surface water onto the highway.**
21. **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Class A, B, C, D, E, F and G of Part 1 of Schedule 2 to the Order shall be undertaken without the prior written permission of the Local Planning Authority.**
22. **Prior to first occupation of the development hereby approved, the proposed first and second floor window openings in the north flank elevation closest to the boundary with Dragons shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.**

Report:

1. This application was considered by Area Plans Sub-Committee South on 25 November 2015 where a motion was made to refuse the application contrary to the above Officer recommendation and the vote was tied. After this vote, 4 Members of the Sub-Committee stood to exercise their right to require that no action be taken on the matter until it has been considered by the District Development Management Committee, with no recommendation from the Area Plans Sub-Committee.
2. The original report is attached in full below for consideration.

ORIGINAL SUB-COMMITTEE REPORT

This application is before this Committee since the recommendation is for approval contrary to an objection from a local council which is material to the planning merits of the proposal (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(g))

This application is before this Committee since it is for a type of development that cannot be determined by Officers if more than two objections material to the planning merits of the proposal to be approved are received (Pursuant to The Constitution, Part Three: Planning Services – Delegation of Council functions, Schedule 1, Appendix A.(f).)

Description of Site:

The application site is part of the residential curtilage of 'Dragons' a Grade II listed late Victorian house in a gothic architectural style with very attractive carved wood and gable features. A wrought iron gate leading to Dragons is also Grade II listed in its own right and is a very intricately designed, unique entrance from Nursery Road to this property.

The overall plot of Dragons is relatively square and is located on the corner of Upper Park and Nursery Road with Dragons situated in the north east corner of the site. The site is heavily treed and is covered by an Area Preservation Order. Dragons is not visible from Nursery Road or Upper Park, due to the amount of tree screening. The application site itself is the area adjacent to Upper Park, on the site of an existing tennis court. The application site is a separate title (ownership title from the land registry) and although follows the boundary of the site to the south with Upper Park, is very irregular in shape to the north (within the garden area of Dragons). The boundary treatment to Upper Park is currently a 1.8m high close boarded fence running the length of the Upper Park boundary.

Description of Proposal:

The application seeks consent for the subdivision of the site and a proposed new dwelling fronting onto Upper Park on the site of the former tennis court. The proposal will have vehicular and pedestrian access from Upper Park with the existing access to Dragons remaining unaffected by this application.

The new dwelling is a very contemporary design with areas of high wall to fenestration ratio and conversely areas of high fenestration to wall ratio; a circular stair area and curved walls. The material choices form part of the design and were submitted as part of the application. The materials include patinated copper (copper that has been treated to create the copper green colour), slate cladding and stone cladding.

The proposal is 23m in width, with a maximum staggered depth of 15.5m. The proposal will be set back from the road edge by a minimum of 4.5m. The dwelling will have a maximum height of 9.1m, flat roofs and partly 3 floors. The proposed new house will be 20m plus from Dragons and set at a lower level.

Relevant History:

Various applications relating to works to Dragons but none relevant to this application

Policies Applied:

Epping Forest District Local Plan and Alterations

CP2 – Protecting the Quality of the Rural and Built Environment

CP3 – New Development

CP5 – Sustainable Building

CP7 – Urban Form and Quality

DBE1 – Design of New Buildings

DBE2 – Effect on Neighbouring Properties

DBE3 – Design in Urban Areas

DBE8 – Private Amenity Space

DBE9 – Loss of Amenity

ST1 – Location of Development

ST4 – Road Safety

ST6 – Vehicle Parking

H2A – Previously Developed Land

H4A – Dwelling Mix

LL10 – Adequacy of provision for landscape retention

HC12 – Development affecting the setting of the listed buildings

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

Summary of Representations:

LOUGHTON TOWN COUNCIL: The Committee OBJECTED to this application which was considered unsympathetic to the streetscene.

8 Neighbours consulted and a Site Notice erected:

5 Little Dragons – Objection - out of keeping with surrounding area, destroy character of the listed building

43 Upper Park – Objection – out of keeping with the area, surrounding properties are traditional in style, trees around Dragons are a feature.

16 Hazelwood – Objection – doesn't compliment existing building, concern over protected trees, materials are commercial, close to listed building, incongruous design, out of keeping with streetscene, concern over highway safety.

Issues and Considerations:

The main issues with this proposal relate to suitability of location, design and impact on the setting of the listed building, impact on amenity, tree issues and highway issues.

Suitability of Location

Nursery Road is on the edge of the built up area of Loughton and within relatively good walking distance of the shops, services and transport links within Loughton town centre. Therefore in terms of sustainability the site is within a good location.

The application site is large enough to accommodate a suitably sized garden, meeting the requirements of policy DBE8 and providing a sufficient parking area. The site is therefore considered a suitable location for a new dwelling.

Design and the Setting of the Listed Building

This proposal is for a very contemporary dwelling which will be surrounded by trees to the rear and side. It is a unique design in both form and scale and one that does not draw on any traditional or vernacular features or detailing.

The proposal will be most visible from Upper Park, but a level of screening will remain as many of the existing trees along the boundary will be retained. Additionally, as part of the proposals the boundary treatment will be altered for the whole road frontage of both Dragons and the new property with a low level wall with hedging above. This will create a far softer boundary treatment than the existing expanse of close boarded fencing. The Conservation Officer is keen that the boundary consistency around both Dragons and the proposed dwelling is maintained as this will help to retain the connection between the listed gates and the listed dwelling.

The Conservation Officer has no objection to this proposal within the setting of the listed building. Although three storeys in height, it is set far lower, and some distance from Dragons. This is evident from the plans as the proposal will be the same height as the eaves of Dragons. Although the plans show a faded out Dragons behind the proposed house, this is only to show the location of Dragons in relation to the proposed house. From the site visit it was clear that firstly Dragons is not visible from Nursery Road or Upper Park and secondly that Dragons and the proposed new dwelling will not be viewed within the same context. The new dwelling will front Upper Park, whilst the existing dwelling fronts (albeit set back) Nursery Road and this is considered to aid to the separation and distinction between the two buildings.

The Conservation Officer considers both the landscaping scheme and the material palette which features high quality materials with natural tones and textures, will soften but not disguise the sharp angled dwelling ensuring its successful integration into the streetscene.

It clearly will appear different within the streetscene, but is not considered unsympathetic. As considered by the Conservation Officer above, the materials and screening will aid in the incorporation of the design into the streetscene.

The design is a 'one-off' and will result in a statement house. The NPPF seeks to promote innovative design and goes so far to suggest that *'great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area'*. It is considered that this proposal demonstrates that if sympathetically executed a modern building can be far less intrusive than a pastiche design, which would be a poor copy of the existing Dragons building. The constraints of the site (the setting of the listed building and the tree preservation order) support and require an interesting design approach that is high quality.

Loughton has a history of unique and many, at their time, contemporary buildings particularly located in the York Hill and Baldwin's Hill Conservation Areas but also around Loughton in general, Tycehurst Hill for example. This contemporary, unique proposal continues this practice. Some of these unique and contemporary buildings have been listed or locally listed acknowledging the contribution they make to the character of Loughton. These properties are likely to have split opinion and may still do; but as with this proposal they add interest and enhance character due to their quality and sympathetic contrast with the more traditional house types of the area.

Amenity

In terms of amenity between the existing property and the proposed dwelling, the proposal is set at the same orientation and as there are only secondary or bathroom windows facing Dragons these can be conditioned as obscured glazed to prevent any overlooking or amenity concerns. Given the distance between the two (some 20m+) there is not considered to be any loss of light or outlook. Additionally the proposed new tree planting along the boundary will screen the properties from each others view.

The nearest property to the proposal is No. 47 Upper Park which is slightly set back behind the rear building line of the proposal. No windows are proposed on the elevation facing No. 47 and this will avoid any overlooking issues and the existing good level of screening provided by trees at the shared boundary will be retained. Therefore no amenity issues are raised with regards to this property.

The dwellings on the opposite side of the road, will clearly have a different outlook to existing but not one that will cause any significant loss of light or outlook. Although there may be some loss of privacy given that there will be first floor/second floor front facing windows this will be to the front, more public areas of the properties opposite and not considered a significant issue. Additionally there will be some 20m+ between the fronts of the proposed and existing dwelling and this is not an unacceptable or unusual distance.

Trees

The Tree and Landscape Officer has no objection to this scheme. All the trees on the site are protected by an area Tree Preservation order made in 1970. This site has some very significant trees – the veteran oak (T1) and a wellingtonia (T5) (the wellingtonia can be seen from various points around Loughton due to its impressive height). Clearly it will be very important should the proposal gain approval that the retained trees are not only suitably protected throughout the development process but that arboricultural supervision is undertaken during key site operations.

The proposal does include the removal of several trees from the site predominantly along the boundaries and are mostly cypress and holly. Several of these trees need to be felled due to their condition irrespective of this proposal. This will open up the site and allow more light in (for both the retained trees and for the new development), as well as providing an opportunity for new boundary planting as part of the proposed boundary treatment.

Highways

The Essex County Council Highways Officer has no objection to the scheme on highway safety grounds and ample parking is provided within the site boundary.

Other issues

Waste/Bins

A screened refuse area has been provided so that wheelie bins can be kept within the site.

Land Drainage

Due to the size of the proposal it is necessary to avoid generating additional runoff and the opportunity of new development should be taken to improve existing surface water runoff.

Contaminated Land

Given the potential for contaminants to be present on this site due to the back filling of a former sunken garden the Technical Officer has requested the standard phased contamination conditions and this is considered reasonable.

Conclusion:

The proposal is a contemporary and unique design which is considered to add to the character of the immediate and wider area, which does not harm the setting of the listed building, is acceptable with regards to the trees on the site, and raises no significant amenity or highway concerns. Clearly the design is very different but given the analysis above is one that is recommended for approval with conditions.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

***Planning Application Case Officer: Marie-Claire Tovey
Direct Line Telephone Number: 01992 564414***

or if no direct contact can be made please email:

contactplanning@eppingforestdc.gov.uk