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# Appeal Decision

Site visit made on 30 May 2018

**by C Victory BA (Hons) BPI MRTPI**

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

**Decision date: 27 July 2018**

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**Appeal Ref: APP/J1535/W/17/3190595**

**Amar Nivas, 146 Hainault Road, Chigwell IG7 5DL**

- 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 STS Companies Limited against the decision of Epping Forest District Council.
  - The application Ref EPF/0479/17, dated 14 February 2017, was refused by notice dated 27 September 2017.
  - The development proposed is the demolition of existing dwelling and garage and new build three storey residential development comprising of 11 units with on-site car parking, cycle storage and refuse store.
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and garage and new build three storey residential development comprising of 11 units with on-site car parking, cycle storage and refuse store at Amar Nivas, 146 Hainault Road, Chigwell IG7 5DL in accordance with the terms of the application Ref EPF/0479/17, dated 14 February 2017, and subject to the conditions in the attached schedule.

## Application for costs

2. An application for costs was made by STS Companies Limited against Epping Forest District Council. This application is the subject of a separate Decision.

## Procedural Matters

3. The new National Planning Policy Framework was published on 25 July 2018, but this has not had a material impact on the main parties' cases in relation to the main issues and requirement to determine the proposal in accordance with the development plan.
4. Reference is made to policies from the Epping Forest District Local Plan (Submission Version) (2017), but not in the Council's reasons for refusal, and it has not stated which of these policies if any the proposal would conflict with. Nonetheless as the plan has yet to be subject to examination I can attach little weight to these policies in determining the appeal.

## Main Issues

5. The main issues in the appeal are:
  - The effect of the proposal on the character and appearance of the surrounding area;

- The effect of the proposal on the living conditions of the occupiers of Nos 126 and 128 Manor Road in respect of outlook; and
- The effect of the development on highway safety and efficiency in the vicinity of the site.

## **Reasons**

### *Character and appearance*

6. The appeal property is a detached two storey dwelling situated within a residential area close to the junction with Manor Road. No 144 Hainault Road to the north is a two storey hipped roof house and the new development under construction at No 126 Manor Road to the south would be two storeys with accommodation within a hipped roof, and a two storey element with parapet roof closest to the appeal site. Other properties in the vicinity include single and two storeys dwellings opposite the site as well as larger flatted development at Silver Hind Court and on Manor Road.
7. The proposal would introduce a more substantial built form into the street scene than at present through both a greater overall height and massing. It would be taller than the roof ridge height of No 144 Hainault Road to the north and the properties opposite. However, the building would be no greater in height than the tallest part of the building under construction at No 126 Manor Road and would also be lower in height than the flats at Silver Hind Court nearby. In addition, the existing building, including a small single storey side projection and side garage, takes up a greater proportion of the site width than the appeal proposal and is greater in height than No 144. Due to the variety in building style and height in the vicinity of the site, the height and massing of the proposed building would not appear out of form and scale with its surroundings.
8. Whilst the footprint of the building would also be greater, about a third of this would be single storey with a flat roof, and would not be seen from the street. Moreover, as the proposed building would be set back broadly in line with the new development at No 126 Manor Road, it would not appear as a dominant feature within the street scene when viewed from Hainault Road to the north or Fencepiece Road to the south. The location of a group of mature trees within the grassed verge adjacent to the slip road on Manor Road and undulations on Hainault Road would serve to further screen the development from longer distance views.
9. The building would be constructed in brick with stone to the ground floor. Although the design would not directly replicate existing properties in the surrounding area, there is no particular uniformity to the appearance of properties in this part of Hainault Road, and the building would appear similar to the building under construction at No 126 in terms of form and solid to void ratio.
10. Taking all of the above into account, I conclude that the development would not harm the character and appearance of the surrounding area. It would accord with Policies CP2 (iv), CP3 (v), CP7 and DBE (i) of the Epping Forest Local Plan and Alterations (LP) (2006). These require developments to safeguard and enhance the setting, townscape and character of the urban

environment and for the scale and nature of the development to respect the character of the local area in terms of scale, proportion, massing and height.

*Living conditions*

11. The southern side boundary of the appeal site abuts the rear garden of properties on the northern side of Manor Road. The rear gardens are open in aspect and relatively generous in length. The ground level slopes down gradually towards the rear of the appeal site but this is also the case on Manor Road.
12. At the time the application was determined, a detached two storey dwelling with detached garage was situated at No 126 Manor Road, a considerable distance from the shared boundary with the appeal site, but members also took into account an extant permission for a flatted development which would be located approximately a metre from that boundary. The Council has stated that a further permission has since been granted for the demolition and rebuilding of No 126 in the same form as the previous permission, and it is considering a further application for minor material amendments, with construction now well underway on that site.
13. The development would result in a three storey building situated about a metre from the boundary with No 126, but the front and rear corners and a central section would be set in from the boundary by three metres. About half of the length of the building would also be obscured by the new building at No 126 which is proposed to be located about a metre from the boundary. The appeal proposal would overlook the communal amenity area for the proposed flats at No 126 but an open outlook would be retained across the rear gardens of properties on Manor Road and the rear of the appeal site. The building would not present a blank elevation to the amenity area but would include false windows and contrasting materials and would only be one storey taller than No 126. As such it would not appear as an unacceptably dominating or oppressive feature when viewed from the amenity area.
14. There would be windows in the ground and first floor facing the appeal site these would be either secondary windows to habitable rooms or serving a shower room. Accordingly, there would be no direct views from habitable windows within No 126.
15. The three storey element of the development would extend across less than a third of the rear boundary of No 128 Manor Road and it would be set three metres off the boundary. The remainder would be single storey with a flat roof, and would be screened by several existing trees and shrubs within the rear garden of No 128. As such it would not appear as an overbearing feature when viewed from this property.
16. I therefore conclude that the proposal would not cause material harm to the occupiers of No 128 Manor Road or future occupiers of the building under construction at No 126 Manor Road in respect of outlook. It would accord with LP Policy DBE2 which requires that development would not have a detrimental effect on neighbouring properties in terms of amenity, and LP Policy DBE9 which states that developments should not result in an excessive loss of amenity for neighbouring properties.

### *Highway Safety and Efficiency*

17. Hainault Road is a main distributor road. The appeal site is located approximately 50 metres from the junction with the slip way on Manor Road. The site has two existing site accesses on either side of a central landscaped area containing two mature trees. A bus stop is situated between the two access points.
18. The plans show both site accesses would be widened to four metres but the Highway Authority (HA) requires a width of 5 metres for the first 6 metres of an access to allow vehicles to pass each other. However, the site would have separate access and egress points, and the HA has accepted that the southern access, which is proposed to be used to exit the site, would have sufficient visibility in both directions. Accordingly a 5 metre width is not necessary to avoid increased risks to highway safety.
19. The appeal scheme proposes car parking for 11 vehicles to the rear of the building, accessed via a lane along its northern side. Although this access would widen out as it joins the car park most of its length would be too narrow for cars to pass each other for much of its approximately 40 metre length. Drivers may need to wait at the site entrance for a vehicle or multiple vehicles to leave the car park via the side access before they can enter the car park, but there would be sufficient room for a vehicle to wait within the site frontage for another vehicle to exit the site.
20. The HA response dated 7 September 2017 confirmed that it no longer had concerns about the intensity of the residential use, but considered residents would use the northern access to egress the site as it is the more direct route from the car park. However, the collision data in the Waterman Infrastructure report indicates that there have been no accidents next to the appeal site and only three minor accidents at the signalled junction adjacent to the Shell petrol filling station, which has a similar in – out arrangement. Moreover, the HA has suggested conditions to manage the traffic circulation within the site, so it is reasonable to expect that such measures would work in practice to reduce the risk of drivers exiting the site via the northern access.
21. In relation to LP Policy ST4 (ii), no evidence has been put forward by the Council to demonstrate that the proposal is likely to lead to an excessive degree of traffic congestion, and the traffic survey submitted by the appellant concludes that there would be only a 1% increase in traffic on Hainault Road. This evidence is unchallenged by the HA and the Council. Whilst the development would increase the number of vehicle movements to and from the site there is no compelling evidence before me that this would have an unacceptably adverse effect on the operation of the local highway network, including the use of the nearby bus stop.
22. I therefore conclude that the proposal would not cause unacceptable harm to the interests of highway safety and efficiency in the locality. It would thus accord with LP Policy ST4 (ii) which states that the Council will grant planning permission for new development only where the proposal is unlikely to lead to an excessive degree of traffic congestion. It would also comply with LP Policy ST4 (iii) which states that planning will only be granted where the proposal will not be detrimental to highway safety.

## **Other Matters**

23. With regard to concerns from the occupiers of nearby properties that the development would lead to similar developments taking place on nearby sites, I have determined the appeal having regard to the individual circumstances of the site and its surroundings, and there is no reason to believe these would be directly replicated on other sites. As such I give this little weight in making my decision.

## **Conclusion**

24. I have found that the development would be acceptable, subject to certain conditions, framed with reference to advice in the Planning Practice Guidance. In addition to the standard time limit condition I have specified the approved plans for certainty. I shall also require details of the types and colours of external materials, external lighting, hard and soft landscaping, tree protection plan, and existing and proposed ground levels, to safeguard the character and appearance of the area. Replacement of any trees that are removed, dead, dying or diseased within 3 years of the completion of the development is necessary for the same reason.
25. Details of traffic management measures within the site to prevent vehicles exiting the site from the northern entrance and details of walls and railings to the road frontage including details of visibility splays are required in the interests of highway safety. A condition is also required to prevent gates being installed to the entrance or exit for the same reason. Wheel washing or other cleaning facilities are required on site to prevent dirt and debris from the appeal site accumulating on the public highway.
26. The provision and implementation of a travel plan and the provision of a secure and covered cycle store as shown on the submitted plans are required to widen travel choice and encourage more sustainable modes of travel.
27. As the site has been identified as vulnerable if land contamination is present, site investigations and remediation where appropriate are necessary to safeguard human health and the environment. It is necessary to restrict the hours of construction and to require the provision and retention of a refuse and recycling store to safeguard the amenity of neighbouring occupiers. Conditions are also required for a flood risk management and maintenance plan to reduce flood risk and to prevent surface water run-off beyond the site.
28. For the reasons set out above I therefore conclude that the appeal should be allowed.

*C Victory*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SSCD 8340/PL01A; PL02A; LP03A; PL04D; PL05; PL06C; PL07B; PL07a Rev A; PL08D; PL09A; PL11A; PL12B, PL13A; PL14A; SSC 8340/PL15 and SSCD 8340/VS01.
- 3) 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.
- 4) Prior to the commencement of the development hereby permitted, flood risk assessment and management and maintenance plan shall be submitted to and approved by the local planning authority. 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.
- 5) Prior to the commencement of the development hereby permitted, details of measures to be installed to manage traffic within the site, including measures to prevent vehicles exiting the site from the northern access (shown as 'entrance' on the approved plans') shall be submitted to and approved in writing by the local planning authority. The works as agreed shall be fully implemented prior to first occupation of the dwellings and retained thereafter in accordance with the approved details.
- 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 and approved in writing by the local planning authority. 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 landscaping 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. These works shall be carried out in accordance with the approved details.
- 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 has been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details. If any tree, shrub, or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased during development activities or within three years of the completion of the development hereby approved, another tree, shrub, or hedge of the same size and species shall be planted within three months at the same place.

- 8) Prior to the commencement of the development hereby permitted, details of walls and railings to be installed on the road frontage shall be submitted to and approved by the local planning authority. The details shall including details of visibility splays to ensure the frontage boundary treatment accords with sightlines set out in drawing SSCD 8340/VS01. The approved works shall be implemented prior to first occupation of the dwellings hereby permitted and retained as such thereafter and no increase in the height of any boundary treatment is permitted to be installed.
- 9) Prior to the commencement of the development hereby permitted, details of any external lighting to be used on the building and on the remainder of the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained and maintained.
- 10) Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil farming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or adoption of any remedial measures be submitted to, and agreed in writing by the local planning authority prior to the recommencement of development works. 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.
- 11) All construction and demolition of development 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 0700 and 1830 Monday to Friday and between 0800 and 1300 on Saturdays and no time during Sundays and Bank Holidays.
- 12) No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed at the site. The installed cleaning facilities shall be used to clean vehicles wheels immediately before leaving the site.