



## Appeal Decision

Site visit made on 21 February 2019

by **S. Harley, BSc.(Hons), MPhil, MRTPI, ARICS**

an Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> March 2019

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**Appeal Ref: APP/J1535/W/18/3208263**

**39 Traps Hill, Loughton, IG10 1SZ**

- 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 Udy Agarwal against the decision of Epping Forest District Council.
  - The application Ref: EPF/2885/17 dated 23 October 2017, was refused by notice dated 30 May 2018.
  - The development proposed is demolition of existing house and replace with two houses.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Since the appeal was submitted an updated and revised National Planning Policy Framework February 2019 (the Framework) and the 2018 Housing Delivery Test Results (the HDT) have been published. I have taken these into account in considering the appeal.
3. The Epping Forest District Local Plan Submission Version 2017 (the emerging LP) is at Inquiry Stage. In accordance with the Framework weight can be given to the emerging LP according to its stage of preparation; the extent of unresolved objections and the degree of consistency with the Framework.

### Background and Main Issues

4. The planning application was refused by the Area Planning South Sub-Committee against the recommendation of the Council Officers. The single reason for refusal relates to the effect of the proposal on the character and appearance of the area. Neighbours and the Loughton Residents Association raised objections to the planning application and the appeal on a number of matters including the effect on the living conditions of the occupiers of adjoining properties.
5. I have exercised my own judgement and, from all I have seen and read, I consider the main issues are the effect of the proposal on the living conditions of occupiers of Nos. 41 and 35 Traps Hill; and the effect of the proposed development on the character and appearance of the area taking particular account of scale and design.

## Reasons

6. The site is within the built-up area of Buckhurst Hill with good access to services and facilities. Additional dwellings would be acceptable in principle if planning policies and other material considerations would be satisfied.

### *Living conditions*

7. The appeal site is at a higher level than No 35 and a lower level than No. 41. The houses are staggered so that the house at No. 41 is mainly forward of the house on the appeal site and the house at No. 35 is partially behind the house on the appeal site. The proposed houses would also be staggered so that No 39A, which would be closest to the boundary with No. 35, would be set further back than No 39B, which would be closest to the boundary with No 41.
8. No. 41 is a detached house set in some 3m to 4m from the shared boundary. At the rear the closest part of No. 41 appears to have been used as an integral part of the living accommodation for some considerable time. The closest part of the existing No. 39 to the shared boundary is single storey with a flat roof. This wraps around the rear of the existing dwelling and incorporates a first-floor balcony. The closest two storey element has a relatively narrow span. The main two-storey side wall is some 4m to 5m from the shared boundary. The existing main roofs are hipped with a second-floor dormer facing No. 41.
9. The upper floors of No. 39B would extend some 7.2m beyond the rear wall of No. 41. They would be significantly closer to the boundary and longer than the upper floors of the existing house. There would be a further 6.8m single storey projection behind this. The eaves of the upper roof would be some 5.9m high. I consider that the proposed dwelling due to its height, length and position would have an over dominant and overbearing effect as viewed from the rear of No. 41, even though that property is at a slightly higher level and the proposed dwelling would be set at a slightly lower level.
10. The upper floors of No. 39A would project significantly further back than the existing two storeys of No. 39 but would not extend significantly beyond the main rear elevation of No. 35. The proposed single storey would extend some 7m further back and would be about 3.2m high and some 1.2m from the shared boundary. The proposed dwelling would be at a significantly higher level than No. 35. Even though it would be set at a slightly reduced ground level, I consider that the proposed dwelling due to its height, length and position would have an over dominant and overbearing effect as viewed from the rear of No. 35. The width of the garden at No. 35 does not reduce this over bearing effect even though it ensures other outlooks are available for the occupiers.
11. In both the neighbouring properties there are trees and shrubs along the shared boundaries. Whilst these have a softening effect to my mind this does not justify buildings of such a scale so close to the boundaries. Nor does the reduction in overlooking by the removal of the existing balcony justify an increase in building mass of the scale proposed.
12. I acknowledge that the proposal has been amended and reduced in scale compared to plans previously submitted and following extensive negotiations with the Council. However, this does not mean the proposal before me is acceptable in my judgement. The submitted plans partially indicate the extent

of the extensions which previously had permission Ref EPF/0378/12 (now lapsed). Although parts of the proposed development would be lower in height, no comparative side elevations were provided so the full effect of the permitted extensions is difficult to evaluate. However, the comparative footprints indicate that the rearmost part of the permitted extensions would be set well in from the boundaries and would have less effect on the neighbouring properties. Accordingly the lapsed permission leads me to no different conclusion.

13. For the reasons set out above I conclude that the proposed development would have a harmful effect on the living conditions of the occupiers of Nos. 41 and 35 Traps Hill. Accordingly, there would be conflict with Policies DBE9 and CP7 of the Epping Forest District Local Plan 1998 and Alterations 2006 (the LP) and Policy DM9 of the emerging LP which seek to ensure no loss of amenity in terms of visual impact, over-bearing or enclosing effect. There would also be conflict with those principles of the Framework that seek a high standard of amenity for existing and future users.

#### *Character and appearance*

14. Traps Hill is predominantly made up of substantial two-storey detached houses arranged in a staggered design, well set back from the road side and with wide curtilages. There are generally gaps to side boundaries and large rear gardens. The character is suburban in style and layout. Individual properties differ in in architectural detailing and materials but are predominantly of more traditional appearance and some changes have taken place over time. The appeal house is a typical large detached property with a wide curtilage and has noticeable gaps to the side boundaries at first floor and above, which adds to the generous spacious character of the area.
15. The proposed development would subdivide the property into two disproportionally long and narrow curtilages. The extent of built development to the rear would not be particularly apparent. However, although there is nothing in principle wrong with the design and appropriate facing materials could be used, the relatively narrow dwellings with only a 2m gap between the two combined, with the asymmetrical, boxy, design would appear unsympathetically urban and discordant on this particular site. The retention of frontage vegetation would soften the impact but the dwellings would be particularly noticeable across the driveways.
16. I acknowledge that the property across the road at No. 36 has a relatively narrow frontage. However, this seems to me to be due to the angle of the boundaries with the neighbours having wider splayed frontages. It does not lead me to conclude that sandwiching two properties together in the manner proposed would be appropriate in this location.
17. Moreover, whilst each planning proposal falls to be considered on its own merits, allowing this appeal could make it difficult for the Council to resist other similar proposals nearby. This would further reduce the spacious suburban character of the area.
18. On balance I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would conflict with Policies CP2(iv), CP7 and DBE1 of the LP and Policy DM9 of the emerging LP insofar as these policies require that new developments should respect their

setting, safeguard the character and townscape of the urban environment and should not result in unsympathetic change in the built environment. The proposal would also conflict with those principles of the Framework that seek well-designed places, that developments are sympathetic to local character, are visually attractive and add to the overall quality of the area concerned.

### **Other Matters**

19. Given the proximity of the appeal site to the Epping Forest Special Area of Conservation (SAC) and the interim advice from Natural England, the requirements of The Conservation of Habitats and Species Regulations 2017 (the Regulations) apply to this appeal. The Regulations require that special consideration is taken in respect of European sites (which include SACs). Planning permission can only be granted where it has been ascertained that the development will not adversely affect the integrity of the SAC.
20. The appellant has indicated a willingness to pay a financial contribution to mitigate against the harmful effects of development on recreational receptors in the SAC and considers that such matters and any on any identified air quality issues could be addressed by condition. Had I been minded to allow the appeal I would have required much more information in relation to these matters. However, as I have already concluded that the appeal will be dismissed for other reasons, the circumstances that would lead to a grant of permission are not present here. As a consequence, I do not need to undertake an Appropriate Assessment; give further regard to the subsequent tests specified in the Regulations; or consider in detail any planning condition.

### **Planning Balance and Conclusion**

21. Paragraph 9 of the Framework explains that the economic, social and environmental objectives of sustainable development set out at Paragraph 8 should be delivered through the preparation and implementation of plans and the application of the Framework; they are not criteria against which each decision can or should be judged. The appellant indicates that the Council cannot demonstrate a five-year supply of deliverable housing land and the recently published HDT indicates Epping Forest District Council delivered 49% of its housing requirement over the past three years. In such circumstances the provision of additional housing should be afforded significant weight.
22. However, Footnote 6 to Paragraph 11 of the Framework, together with Paragraphs 176 and 177 of the Framework, indicate that the presumption in favour of sustainable development does not apply where a development requires an Appropriate Assessment under the Regulations. The balance to be struck is therefore a balance with no presumption in favour.
23. I have found that the development would be harmful to the living conditions of occupiers of neighbouring properties and to the character and appearance of the area. As set out above there would be conflict with the development plan. On the other hand, the proposed development would make efficient use of previously developed land in an accessible location. It would boost the supply of much needed housing which attracts significant weight, although this is moderated by the very modest contribution one dwelling would make.
24. On balance I conclude that the benefits would not out-weigh the harm I have identified. In failing to comply with Policies CP2(iv), CP7, DBE1 and DBE9 of

the LP the proposal cannot comply with the development plan taken as a whole. I find no other material considerations that would justify reaching a decision other than in accordance with the development plan. For the reasons set out above I conclude that the appeal should be dismissed.

*S Harley*

INSPECTOR