

APPLICATION No:	EPF/1471/19
SITE ADDRESS:	113 Church Hill Loughton Essex IG10 1QR
PARISH:	Loughton
WARD:	Loughton St Johns
APPLICANT:	Mr Steve Healey
DESCRIPTION OF PROPOSAL:	Residential development of x 10 no. apartments with associated parking and external amenity space. (Revised application to EPF/0610/18).

related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/NIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=624994

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 numbers: 17068/PL01A, PL02, PL03B, PL04, PL05, PL06 and PL07
- 3 No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 4 Following completion of the 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.

- 5 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 Phase 2 report, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 6 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 such agreed details.
- 7 No ground works 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.
- 8 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. The parking of vehicles of site operatives and visitors
 2. Loading and unloading of plant and materials
 3. Storage of plant and materials used in constructing the development
 4. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 5. Measures to control the emission of dust and dirt during construction,
 6. A scheme for recycling/disposing of waste resulting from demolition and construction works.
 7. Tree protection measures.
- 9 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. 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; 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.

- 10 No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.
- 11 Prior to the commencement of the development other than groundworks, details of all walls, fences gates and other means of enclosure, and including where practical retention of existing boundary walls, shall be submitted to and approved by the Local Planning Authority. The works as agreed shall be fully implemented prior tot first occupation of the development. No further gates or means of enclosure shall thereafter be added without prior consent from the Local Planning Authority.
- 12 Prior to the commencement of development other than groundworks, details of all external lighting to be installed on buildings and within the site shall be submitted to and approved by the Local Planning Authority/ The works as agreed shall be fully implemented prior to first occupation of the development. Thereafter, no additional lighting shall be installed above ground floor level of the building without prior consent from the Local Planning Authority.
- 13 Prior to the commencement of the development other than groundworks, details of the design, including security measures, of the cycle store with capacity for a minimum of 10 bicycles shall be submitted to and approved by the Local Planning Authority. The works as agreed shall be fully implemented prior to first occupation of the development and thereafter retained for use by residents of the site.
- 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 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.
- 16 All material excavated from the below ground works hereby approved shall be removed from the site unless otherwise agreed in writing by the Local Planning Authority.
- 17 Notwithstanding any details approved pursuant to condition 6 above, the development be carried out strictly in accordance with the flood risk assessment (SLR, Ref 425.09671.00002 Version No.2 May 2019) and drainage strategy submitted with the application unless otherwise agreed in writing with the Local Planning Authority.
- 18 Prior to first occupation of Units 7, 8 and 10, obscure glazed privacy screens a minimum of 1.8m high shall be fitted to the south west facing end elevation of balconies to Units 7 and 8 and the terrace to unit 10 as so identified on the approved plan. Such screens shall thereafter be permanently retained and maintained in perpetuity unless otherwise agreed by the Local Planning Authority.

- 19 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.
- 20 Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point for each parking space shall be installed and retained thereafter for use by the occupants of the site.
- 21 Prior to the first occupation of the development the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in perpetuity for their intended purpose.
- 22 Prior to first occupation of the development the existing redundant vehicular dropped kerb crossing shall be fully reinstated to full height kerbing and footway.
- 23 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, to include six one day travel vouchers for use with the relevant local public transport operator.
- 24 Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 25 The rear external amenity area at ground floor shall remain available for use by all residents and shall not be enclosed or sub-divided to limit or prevent access thereto for any resident unless otherwise agreed in writing by the Local Planning Authority.
- 26 All flat roof areas indicated on the floor plan 17068/PL04 as finished as Sedum Roof areas shall be used only for maintenance and repair access to the building and shall not be used as terraces, balconies or other amenity areas.
- 27 Flank windows at first and second floor in the side elevation of the building facing no.111 Church Hill shall be non-opening and finished in obscure glazing, and shall be permanently retained in that form. No additional window openings shall be installed in any elevation of the building without prior consent from the Local Planning Authority.
- 28 No vents, grilles or ducting shall be fixed to the front elevation of the building without the prior written approval of the Local Planning Authority.

And subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure a financial contribution towards mitigation of the impact of the development on visitor pressure and air quality in the Epping Forest Special Area of Conservation.

This application is before this Committee since it is an application for residential development consisting of 10 dwellings or more (other than an application for approval of reserved matters) and is recommended for approval (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council).

Site and Surroundings

The application relates to the former milk delivery depot site on the south-east side of Church Hill, comprising around 0.1 ha on an L-shaped plot extending behind the adjoining petrol station. Following previous grant of outline permission for redevelopment and for security reasons, the previous single storey buildings on the site have been demolished and the site made secure.

The site is adjoined on its south-east and south-west sides by residential properties. The site also adjoins a petrol station to the north east, beyond which is the Sainsbury Local store in a three storey building including residential accommodation on the upper floors.

The location of the site on Church Hill means there are significant changes in ground levels, rising to both south and east

Proposal

The application resubmits the proposals considered by Members in June 2018 for redevelopment of the site to provide a three-storey building comprising of 10 x 2 bedroom flats, with 10 parking spaces in the north-eastern part of the site.

The scheme proposes 4 units on both ground and first floors and two at second floor. The siting of the building reflects the outline applications, it aligns at the front with the adjoining house and terminates around 8m from the rear boundary. The second floor is set a minimum of 2 metres at the front and 4 metres from the rear, further set backs are indicated on the side elevations.

Main entrance to the building is from the side off the access road and a bin store is sited adjacent to the entrance as an integral part of the building, also entered from the access road. Ten parking spaces are provided at the rear together with cycle stores. Pedestrian access is also retained on the south-west side of the building.

The building has a contemporary design with flat roofs to minimise the height. The second floor is set back from the front main wall by 2m and from the rear by 4m. Balconies and terraces are provided to first and second floor flats, primarily located on the north west side elevation and at the front at roof level; other flat roof areas are indicated as sedum roofs with no direct access as amenity decks.

Materials are indicated primarily as brick and at roof level zinc cladding with detail elements of timber boarding.

Relevant Planning History

EPF/1741/16 Outline application for residential development of three storey building comprising 10 no. apartments with details of access. The application was initially refused for three reasons, however two of these relating to parking, highway obstruction from refuse vehicles and visibility splays were later withdrawn in advance of an appeal which proceeded on the grounds that a three storey building was considered to relate poorly to the neighbouring house, would appear over-dominant in the street scene. The appeal against this refusal was successful, and is discussed further below.

EPF/0862/17 Outline application for residential development with details of access , this revised scheme again proposed 10 units but illustrative material indicated a two storey building only. This application was approved.

EPF/0610/18 Residential redevelopment of 10 apartments with associated parking and external amenity space. This application was refused by Committee for the following reason:

By reason of its modern flat roofed design, the proposed building would appear out of keeping with neighbouring buildings, particularly 111 and 122 Church Hill, and would not sufficiently enhance the setting of 122 Church Hill, a Grade II listed building situated opposite the site. As a consequence, the proposal would cause harm to the character and appearance of the locality contrary to Local Plan and Alterations policies CP2(iv), CP7 and DBE1, and to Draft Local Plan (Submission Version 2017) policies DM 7 (paragraph A) and DM 9 (paragraphs A and D), which are consistent with the NPPF.

At appeal, the Council introduced further grounds, that the development had an adverse impact on the Epping Forest SAC. The appeal was dismissed, but only on the impact on the SAC, this decision is discussed further below.

Development Plan Context

Local Plan (1998) and Alterations (2006)

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan currently comprises the Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006).

The following policies within the current Development Plan are considered to be of relevance to this application:

CP1	Achieving Sustainable Development Objectives
CP2	Protecting the Quality of the Rural and Built Environment
CP3	New Development
CP6	Achieving Sustainable Urban Development Patterns
CP7	Urban Form and Quality
NC1	SPAs, SACs and SSSIs
RP4	Contaminated land
RP5A	Adverse Environmental Impacts
H2A	Previously Developed Land
H3A	Housing Density
H4A	Dwelling Mix
U3B	Sustainable Drainage Systems
DBE1	Design of New Buildings
DBE2	Effect on Neighbouring Properties
DBE3	Design in Urban Areas
DBE6	Car Parking in New Development
DBE8	Private Amenity Space
DBE9	Loss of Amenity
LL11	Landscaping Schemes
ST4	Road Safety
ST6	Vehicle Parking

National Planning Policy Framework (NPPF) (February 2019)

The revised NPPF is a material consideration in determining planning applications. As with its predecessor, the presumption in favour of sustainable development remains at the heart of the NPPF. Paragraph 11 of the NPPF provides that for determining planning applications this means either;

- a) approving development proposals that accord with an up-to-date development plan without delay; or
- b) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making, but policies within the development plan need to be considered and applied in terms of their degree of consistency with the Framework.

In addition to paragraph 11, the following paragraphs of the NPPF are considered to be of relevance to this application:

Promoting sustainable transport – para 110

Making effective use of land – para 117, 118, 121,

Achieving well designed places para 124, 128, 130. 131

Meeting the challenge of climate change, flooding and coastal change – para 163, 165

Conserving and enhancing the historic environment – para 193, 195, 196

Epping Forest District Local Plan Submission Version (LPSV) (2017)

Although the LPSV does not currently form part of the statutory development plan for the district, on 14th December 2017 the Council resolved that the LPSV be endorsed as a material consideration to be used in the determination of planning applications.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019. On the 2nd August, the appointed inspector provided her interim advice to the Council covering the substantive matters raised at the hearing and the necessary actions required of the Council to enable her to address issues of soundness with the plan without prejudice to her final conclusions.

The following policies in the LPSV are considered to be of relevance to the determination of this application, with the weight afforded by your officers in this particular case indicated:

Policy	Weight afforded
SP1 Presumption in Favour of Sustainable Development	Significant
SP7 The Natural Environment, Landscape Character, and Green and Blue Infrastructure	Some
H1 Housing Mix and Accommodation Types	Some
T1 Sustainable Transport Choices	Significant
DM2 Epping Forest SAC and the Lee Valley SPA	Significant
DM3 Landscape Character, Ancient Landscapes and Geodiversity	Significant
DM9 High Quality Design	Significant
DM10 Housing Design and Quality	Significant
DM15 Managing and Reducing Flood Risk	Significant
DM16 Sustainable Drainage Systems	Significant
DM19 Sustainable Water Use	Significant
DM21 Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 Air Quality	Significant

Summary of Representations

Number of neighbours consulted: 48 - 4 response(s) received
 Site notice posted: 27 June 2019

NIEGHBOURS – Objections were received from 24 and 32 MARJORAMS AVENUE and 122 CHURCH HILL raising the following concerns;

- Design and appearance of development
- Overlooking of rear gardens in Marjorams Avenue
- Traffic and parking issues arising from the level of parking proposed
- Security issues along rear site boundary – residents seek retention of the existing rear boundary wall (retained when the building was demolished) and seek a secure boundary to the shared amenity area.
- Nuisance from lighting in the car park area.

Resident at 5 COBALT PLACE, 121 CHURCH HILL comments on concerns at construction disturbance only.

TOWN/PARISH COUNCIL – Loughton Town Council advised there was no objection to the application.

Planning Considerations

Appeal decisions

The application has been submitted following the dismissal of the appeal against the refusal of the previous application in 2018. The Inspectors decision and reasons in that decision, and in the earlier appeal in respect of the outline application from 2016, are material to the determination of the application.

In the 2017 appeal case, the Inspector considered the principle of a three storey building on the site, concluding '*...in view of the wide range of building types in the area, I am not persuaded that a three storey building on the appeal site would be unacceptable in principle*'. The Inspector also concluded that the separation distance to properties in Marjorams Avenue was sufficient to overcome overlooking and overshadowing concerns, provided no rear facing roof terrace was included.

In the more recent appeal, the Inspector considered the main issues to be the effect of the development on the character and appearance of the area, and whether the scheme would preserve or enhance the setting of the listed building at 122 Church Hill. On the first issue, the Inspector made the following assessment:

9. Most buildings near the site are two storey in height with a pitched roof. The exception to this is the flat roof three storey Sainsburys building. There is therefore precedent for three storeys and a flat roof design in the area. Both the appeal site and the Sainsburys store would form modern buildings lying either side of the petrol filling station. The canopy of the petrol station, whilst being a structure rather than a building, also has the form of a flat roof. The appeal proposal, seen in this context would not look out of place in this part of Church Hill.
10. The Council consider that the flat roof design would be out of keeping when seen with the traditional style of No 111 Church Hill. However, the appeal site is located at the point of transition between the commercial premises of Loughton and the residential uses on its edge. Taking a wider view, the proposal would not look out of character against these commercial uses, being sited at the limit of their extent.
11. With regard to materials, the use of zinc cladding to the second floor would introduce a new type of material to the locality. However, there is already a wide range of materials in this area and the second floor of the proposed building would be set back onto the roof. This would reduce its dominance in the street scene and result in no adverse harm to the character and appearance of the area.

Considering the relationship with the listed building, the Inspector commented as under:

17. I acknowledge that the appeal scheme would be sited on the same building line as No. 111 Church Hill and would therefore feature prominently in the same view as the Listed dwelling. However, the setting of the Listed property consists of both commercial and residential buildings with a mix of architectural styles, heights, mass and materials. In this context I consider that the appeal scheme would preserve the setting of the heritage asset and would not cause any harm to its significance.

The Inspector was presented with the updated position on the Epping Forest SAC and the potential impact on the development. The appellants submitted a draft Unilateral Undertaking proposing contribution of £3,520 to mitigate recreational impact, but this was

incomplete and the Inspector saw it as ineffective. The Inspector accepted the Council's argument that the development impacted air quality, commenting:

22. Planning permission can only be granted where it has been satisfactorily demonstrated that the development will not adversely affect the integrity of the SAC. In the absence of an agreed mitigation strategy to overcome the in-combination effects that have been identified in respect to air quality and the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, I cannot be satisfied that the appeal proposal would not cause harm to the integrity of the SAC. I am therefore unable to allow this appeal.

It should be noted that the Inspector had due regard to the policies in the Local Plan Submission Version in reaching the decision. At the time the appeal was determined, the Local Plan examinations were in progress but none of the policies cited in the reasons for refusal or referred to in the Inspector's decision are proposed for substantial alteration as a result of the Inspector's findings.

Design issues

In design terms, two Inspectors have now considered the form of building proposed to be appropriate to the area, and it would be difficult to now argue against again. The petrol station canopy screens large areas of the larger elevation, and building levels rise to the south, such that the set back of the upper floor reduces the impact of the scale and mass of the building on the street frontage, such that the overall scale is consistent with the street scene, and as the Inspector concluded does not adversely impact the listed building.

Amenity, parking and traffic issues

Neighbours have raised issues of overlooking and overshadowing again, but the previous application was not refused on this ground. No alterations are proposed to the rear elevation, only high level windows are proposed in the rear elevation at second floor and one first floor bedroom window. Properties immediately to the rear of the development have 25m deep rear gardens and sit in an elevated position above the site, further limiting such harm.

Residents also raise security and lighting issues which are more appropriate to be dealt with by conditions. The rear wall referred to by neighbours is indicated as retained.

Neither previous application has been refused on parking grounds. The scheme proposes one car space per unit and cycle stores, as previously. The site lies within an accessible location well served by bus routes to both Debden and Loughton centres and the level of parking in such a location is supported by the Highway Authority, as is the siting and general form of the site access.

Epping Forest SAC issues

The potential impact of development on the Epping Forest SAC in terms of recreational impact and air quality has been recognised in the Inspector's decision and the applicant's latest submission. The applicants have confirmed their agreement to make appropriate contributions to mitigate such impact, comprising £3,250 (£325 per dwelling) in respect of recreational impact and to meet any future level of contribution that may be agreed with Natural England in respect of air quality. A draft unilateral undertaking is submitted with the application to that effect. Thus, if Members are minded to approve the application, final decision cannot be issued until the levels of this contribution have been determined.

Other matters

Historic uses of the site, and the presence of the petrol station adjacent, mean that the site is likely to be contaminated. An Phase 1 assessment has been submitted detailing the potential for contaminants and this has been assessed by consultants as sufficient at this stage, subject to further detailed investigation which can be dealt with by conditions.

Conclusion

The principle of residential redevelopment of the site as ten units and in a three storey form was effectively established by the decision allowing the first appeal in 2017. Members and residents concerns at the detailed application have been considered by a further appeal inspector who considered the general details of the application – its scale and design, the impact on surrounding properties including the listed building and parking and access issues – to be acceptable in this location.

In terms of the context of the resubmitted application, the Local Plan Submission Version is at a more advanced stage and can be given additional weight, but the policies therein were before the inspector at the appeal, and are not significantly affected by the Inspectors comments on the Local Plan Examination, resulting in no substantive change in circumstances.

The issue around the impact on the Epping Forest SAC now has an acceptable way forward with the applicants proposing an appropriate legal agreement to deal with contributions to mitigate recreational pressures and air quality impact.

Officers consider that the application should now be approved in principle (subject to the legal agreement referred to) and to seek to refuse again leaves the Council vulnerable to costs at a further appeal. Officers have reviewed conditions recommended previously at Committee and at appeal and have updated these as required. These cover the matters of lighting and boundary treatments raised by objectors.

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

***Planning Application Case Officer: Ian Ansell
Direct Line Telephone Number: 01992 564481***

***or if no direct contact can be made please email:
contactplanning@eppingforestdc.gov.uk***