



Appeal Decision

Site visit made on 18 April 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 14th May 2019

Appeal Ref: APP/J1535/W/19/3220974

1 Buttercross Lane, Epping, Essex CM16 5AA

- 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 David Shaw (ARA Homes Ltd) against the decision of Epping Forest District Council.
 - The application Ref EPF/1583/18, dated 5 June 2018, was refused by notice dated 28 November 2018.
 - The development proposed is demolish existing house, replace with 9 apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An emerging plan, the Epping Forest District Local Plan Submission Version 2017, was submitted to the Secretary of State on 21 September 2018 for examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework (the Framework), I give it limited weight and it does not alter my conclusions.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the Epping Conservation Area (CA); and
 - the living conditions of occupiers of 3 Buttercross Lane (No 3), as regards outlook.

Reasons

Character and appearance

4. The appeal site lies within the CA. I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability.

5. According to its Character Appraisal¹, the special architectural and historic interest of the CA derives from the historic layout of the settlement and the large number of historic buildings. The majority of the CA is taken up by Epping High Street; a long wide busy street lined with shops. The CA also includes several lanes and roads leading off the High Street, including Buttercross Lane which according to the Appraisal is a quiet residential cul-de-sac with a slightly quaint and charming character.
6. The appeal property is a twentieth-century 2-storey detached house in spacious grounds, mentioned in the Appraisal, on the western side of the Lane. Due to proximity and the slight curve of the Lane to the east, the house is prominent and one of the first residential dwellings seen after entering the Lane from the junction with the High Street.
7. Consequently, while stated of neutral value in the Appraisal and not of particular historical significance in its own right, the property is pivotal in securing the early impression of the Lane as a quiet residential cul-de-sac. Further, it successfully marks the transition from the more densely developed commercial properties fronting the High Street to the pleasant arrangement of mainly detached dwellings of the Lane which together provide its charming character.
8. The transitional effect is strengthened because the property is markedly different, in scale and design, to the adjacent taller weather-boarded buildings at No 269 High Street and Doubleday House. While the latter building comprises residential flats, submitted evidence indicates that it was originally an office block and it more closely associates with commercial properties behind it rather than with the mainly detached single dwellings in the Lane. The importance of the appeal property in acting as a gateway to similar residences in the Lane beyond is therefore enhanced.
9. The proposed development would demolish the appeal property and replace it with a significantly larger building with 9 apartments. Although it would have a similar width and front building line as the existing property, the flatted development would be taller. The southern element of the L-shaped building comprising 3 floors of accommodation would extend around 15 metres deeper into the plot than the existing house. Accordingly the building, and particularly the southern elevation as experienced after entering the Lane from the High Street, would appear significantly more dominant than the existing house.
10. The significantly increased height, bulk and massing of the proposal would end the positive effect that the current property exerts on the character and appearance of the CA, and would fail to preserve it. Notwithstanding the intended design of the building as a large detached house when seen from the front, other views including those experienced when coming from the High Street would produce a visual disassociation between the property and the quaint and charming ribbon of mainly detached single dwellings forming the cul-de-sac. The use of weather-boarding and design features similar to Doubleday House, which is itself incongruous with the prevailing residential built form of the Lane, would reinforce this disassociation.
11. I acknowledge that there are buildings to the south which are similar in height or taller than the proposal, including flatted developments, which have been

¹ Epping Conservation Area Character Appraisal and Management Plan, November 2009.

approved by the Council. However, these developments are more closely associated with commercial properties on the High Street and therefore do not contribute to the character and appearance of Buttercross Lane and the CA in the same way as the appeal site for the reasons given.

12. Having regard to paragraph 196 of the Framework, whilst the harm caused to the significance of the CA would be less than substantial, it is a matter of considerable weight and importance. The proposal would provide a net gain of 8 modern homes on previously developed land outside of the Green Belt, but these public benefits do not outweigh the harm.
13. I conclude the proposal would fail to preserve the character or appearance of the CA, and would cause less than substantial harm to its significance as a designated asset. The public benefits do not outweigh this harm and the proposal is therefore contrary to Policies DBE2, HC6 and HC7 of the Epping Forest District Local Plan which together seek to ensure that proposals protect the character and appearance of places, including conservation areas. The proposal is also contrary to the heritage protection and design principles of the Framework.

Living conditions, occupiers of No 3

14. The nearest part of the proposed building would be around 1.5 metres further away from the southern elevation of No 3 than the current building, due to the creation of an access road between the properties. The roof mass of the proposed development would also be stepped-down adjacent to No 3 by approximately 1.6 metres.
15. Notwithstanding the above, the proposed development would replace an existing 2-storey dwelling with a considerably larger block of flats with 3 floors of accommodation. The rear projection of the L-shaped building, while being located next to the site's southern boundary, would represent a significant bulk of built form that would extend around 15 metres beyond the rear building line of the existing house and No 3. Although I acknowledge that the appellants have designed the proposal with a view to ensuring that the new building is outside of any 45-degree sight lines from the windows of No 3, its sizeable bulk would significantly reduce the outlook from the rear patio and garden of that property. This would cause an oppressive sense of enclosure to the occupiers.
16. While I acknowledge that the outlook south from No 3 currently includes views of flatted developments associated with properties to the rear of the High Street, the proposed development would introduce a significant amount of built form in the foreground which, through its scale and proximity to No 3, would materially impact upon outlook from that property. Landscaping and planting on the northern boundary of the appeal site and either side of the access road, as suggested by the appellants, would not be effective in sufficiently softening the form of the building to reduce its impact due to its scale.
17. For the above reasons, the proposed development would detrimentally affect the outlook from No 3 causing significant harm to the living conditions of occupiers. As such it is contrary to Policy DBE2 of the Epping Forest District Local Plan which seeks to ensure that proposals do not have a detrimental effect on neighbouring properties. The proposal is also contrary to the design principles of the Framework.

Other Matters

Housing supply

18. The Council's officer report to its District Development Management Committee advises that the Council cannot demonstrate a 5-year housing land supply. The appellants have also said that the Council is failing to meet its housing targets.
19. Even if I were to conclude there is a shortfall in the supply of housing and that the most important policies for determining the proposal should be considered out-of-date with the Framework, Paragraph 11d) and footnote 6 would be engaged as an important material consideration. This states that planning permission should be granted unless the application of policies in the Framework that protect "areas or assets of particular importance" provide a clear reason for refusing the development proposed.
20. As the CA is an "area or asset of particular importance", and as I have found that less than substantial harm to the significance of a designated heritage asset is not outweighed by public benefits, this is a clear reason for refusing the proposed development. As such, even were I to find that there was a shortfall in housing supply, it does not indicate that the proposal should be permitted in spite of its conflict with the development plan.

Planning Obligation

21. The appellant is willing to enter into a Planning Obligation (PO) to make a financial contribution towards mitigating adverse effects to the Epping Forest Special Area of Conservation (SAC) caused by the creation of new homes within its surrounding area. As the appeal is being dismissed for reasons relating to the main issues, it is not necessary to consider the PO any further.

Conclusion

22. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Andrew Walker

INSPECTOR