

# Report to District Development Management Committee



**Epping Forest  
District Council**

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**Report Reference:** *EPF/0891/20*  
**Date of Meeting:** *22 July 2020*

**Address:** 83 Bell Common, Epping, CM16 4DZ

**Subject:** Planning Application EPF/0891/20: Alterations to existing side roof dormer.

**Responsible Officer:** Sukhi Dhadwar (01992 564597)

**Democratic Services:** Gary Woodhall (01992 564470)

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## Recommendations:

1. That planning application EPF/0891/20 be recommended for refusal of planning permission by Area Planning Sub-Committee East for the following reason:

(1) The proposed dormer, by virtue of its prominent siting, size, bulk and design will result in a dominant incongruous and unattractive feature which will undermine the appearance of the dwelling, streetscene and the wider local character and appearance of the Bell Common Conservation Area. There are no public benefits which would outweigh this harm. The proposal is therefore contrary to the requirements of S72(1) of the Planning and Listed Building and Conservation Areas Act 1990; Chapters 12 and 16 of the NPPF; policies HC6, HC7, DBE1, DBE3 of the Local Plan and Alterations along with policies DM7, DM9 and DM10 of the Epping Forest District Local Plan (Submission Version) 2017.

2. This application was considered at Area Planning Sub-Committee East on 08 July 2020 with a recommendation from Officers to refuse consent for the above reason.

3. Discussion took place at Area Planning Sub-Committee East about the history of the site, the impact of the dormer, and the setting and surrounding area. A motion was made and seconded for a deferral for a Site Visit, however the vote was not carried.

4. Members of Area Planning Sub-Committee East determined to refuse planning consent for the reason stated above as a majority vote. However the item was subsequently referred to District Development Management Committee by a minority of Members, in accordance with Article 10 of The Constitution.

5. Members of Area Planning Sub-Committee East strongly recommended that District Development Management Committee Members individually view the site from the public realm prior to the District Development Management Committee in order to understand its setting and context.

### **Original Officer Report:**

*This application is before this Committee since it has been 'called in' by Councillor Jon Whitehouse (Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council)).*

### **Description of Site:**

The application site contains newly built 4-bedroom dwelling. It is located on the eastern side of Bell Common.

The site adjoins a twentieth century house on both its side flank boundaries. It is part of a ribbon development on the eastern side of Bell Common. Land to the west of the site is open land covered in vegetation and trees. The site falls within with the Bell Common Conservation Area and land designated as Metropolitan Green Belt.

### **Description of Proposal:**

Permission is sought for the reduction in size of the existing unauthorised side roof dormer.

### **Relevant History:**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>
EPF/2955/17	Variation of condition 2 'plan numbers' of EPF/2829/16 (Demolition of existing two storey detached dwelling. Replacement three storey detached dwelling). Changes include a repositioned and larger side dormer.	Refused
Reason for refusal: The altered dormer as built, by virtue of its prominent siting, size, bulk and design is out of scale with the design of the dwelling as a whole and results in a dominant incongruous and unattractive feature which undermines the quality of the development, the distinctive local character and appearance of the streetscene and is harmful to the Bell Common Conservation Area. The proposal is therefore contrary to the requirements of Chapters 7 and 12 of the NPPF; policies HC6, HC7, DBE1, DBE3 of the Local Plan and Alterations and policy DM7 of the Epping Forest District Local Plan (Submission Version) 2017:		
ENF/0702/16	Without planning permission, the unauthorised construction of a dormer positioned on the south-west facing elevation.	The appeal is dismissed, and the enforcement notice is upheld.
EPF/2829/16	Demolition of existing house and construction of a four-bedroom dwelling	Granted.
EPF/1277/13	Extension of time limit to EPF/0731/10. (Demolition of existing dwelling and erection of a new detached dwelling)	Granted
EPF/0731/10	Demolition of existing dwelling and erection of a new detached dwelling	Granted
EPF/0874/96	Two storey rear extension	Granted

## **DEVELOPMENT PLAN**

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:

CP3: New Development  
CP7 – Urban Form and Quality  
DBE1: New Buildings  
DBE2: Effect on neighbouring Properties  
DBE9: Neighbouring Residential amenity  
GB2A: Development in the Green Belt  
GB7A: Conspicuous Development.  
HC6 – Character appearance and setting of Conservation Area  
HC7 – Development within Conservation Areas  
HC12-Development Affecting the setting of a Listed Building  
CP7 – Urban Form and Quality

## **NATIONAL PLANNING POLICY FRAMEWORK (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.

## **EPPING FOREST DISTRICT LOCAL PLAN SUBMISSION VERSION (2017) (LPSV)**

Although the LPSV does not currently form part of the statutory development plan for the district, on 14 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:

<b>Policy</b>	<b>Weight afforded</b>
SP1 - Presumption in Favour of Sustainable Development	Significant
DM4 - Green Belt	Significant
DM7 - Heritage Assets	Significant
DM8 - Heritage at Risk	Significant
DM9 - High Quality Design	Significant
DM10 - Housing Design and Quality	Significant

#### **Consultation Carried Out and Summary of Representations Received**

Number of neighbours consulted: 2

Site notice posted: Yes

Responses received: No response received from neighbours

**PARISH COUNCIL:** No objection

**CONSERVATION OFFICER: RECOMMEND REFUSAL:**

#### **Initial Remark**

*We question the submission of yet another application when previous planning*

*application and pre-application reports and an Inspector's report have already clearly expressed views on this development. If there had been any way forward that could have been found acceptable, without having to relocate it (as approved originally), this would have been communicated to the applicant when the retrospective application was submitted in 2017, ref. EPF/2955/17.*

*In addition, we feel that the wording of the proposal does not reflect correctly the proposed design. After reviewing the submitted plans, it appears that there is no reduction in size but only a change of the roof slope, from a catslide roof to a nearly flat roof.*

#### Context

*83 Bell Common is a modern dwelling built in 2017 within the Bell Common Conservation Area.*

#### Relevant planning history

- *In 2016, permission was granted for the demolition of the late twentieth century two storey detached dwelling house on the site, to be replaced with a three storey detached dwelling (EPF/2829/16). The original house was nestled between two adjacent houses with the gable end to the street and with the ridge line set down.*
- *In 2017, a retrospective application was submitted (EPF/2955/17) as the side roof dormer had not been constructed in accordance with approved drawings. This application was refused.*
- *In 2019 (September), An appeal against the Enforcement Notice was dismissed and the Enforcement Notice upheld. The inspector agreed with the officers concerns and felt that, due to its size and position, the dormer was not subordinate to the roof slope and protruded significantly. The Inspector also mentioned in the report that the spatial and visual prominence of the dormer window was reinforced by the fact that the new dwelling had been built significantly higher than approved on plans and therefore stands significantly higher than the buildings directly adjacent to it.*
- *An enforcement notice was applied to the unlawful works and the applicant was given until 9th November 2019 to rectify the situation. No works have been started to date.*
- *In 2019 (October), a pre-application (EPF/2019/ENQ/00963) was submitted to seek advice regarding amending the unlawful dormer window. The sharp angled appearance of the proposed flat roof of the dormer was considered even more harmful than the existing appearance. The overly large size of the face of the dormer and its position on the roof slope remained not addressed.*

#### Comments on the present scheme

*We would like, once again, to reiterate our previous concerns. This application is for a change of the roof slope, from a catslide roof to a nearly flat roof.*

*As expressed in our pre-application response, we feel that the only element that has been addressed by this new scheme is the increase in distance that the dormer now sits away from the ridge line. This has been achieved by squaring the dormer, which was originally designed as a catslide. The sharp angled appearance of the very shallow roof is considered even more harmful than the existing appearance, as it gives a very "boxy" appearance to the dormer window. This makes the dormer protrudes even more.*

*The overly large size of the face of the dormer and its position on the roof slope has still not been dealt with. As mention previously in this comment, the inspector has agreed with the officers concerns in his appeal report and felt that, due to its size and*

*position, the dormer was not subordinate to the roof slope and protruded significantly. The Inspector also mentioned in his report that the spatial and visual prominence of the dormer window was reinforced by the fact that the new dwelling had been built significantly higher than approved on plans and therefore stands significantly higher than the buildings directly adjacent to it.*

### Conclusion

*We, therefore, recommend this application to be REFUSED and the dormer window to be altered or rebuilt to conform to the small and subservient catslide dormer approved in 2016. This is in line with the 2017 recommendation for refusal and the Inspector report (2019).*

*This is supported by policies HC6 and HC7 of our Local Plan and Alterations (1998 and 2006), policy DM7 of our Submission Version Local Plan (2017).*

### **Planning Considerations:**

The key consideration for the determination of this application is impact of the proposal on the character and appearance of the application property and wider Bell Common Conservation Area.

### Background

Planning permission was initially given under reference EPF/2829/16. The additional height of the house was approved on the basis that the overall design of the house was an improvement on the lower height 3 bedroomed house already approved. This permission was implemented, however the dormer as built on the south westerly elevation was significantly different from that approved. The differences are that it has a face which is nearly double the size of that approved; the top is closer to the ridge line by approximately 800mm, and it is about 1 metre further towards the front of the house. The impact from the dormer is exacerbated by the fact that the new house is significantly higher than those adjacent by about 1 metre.

An application under reference EPF/2955/17 was submitted to authorise the 'as built' dormer. This application was refused.

An Enforcement Notice was served on the property on 25 May 2018. This Notice required that the dormer be removed or altered to accord with plans approved under planning permission EPF/2829/16 by no later than November 2019. This notice was appealed.

The Planning Inspector dismissed the appeal and upheld the enforcement notice. In his decision letter he opined that

*The new house is a replacement for a modestly sized one-and-a-half storey house. As the Council say, it is about a metre higher than the houses to either side, which already increases its scale and prominence in the street scene. This is also a result of standing well forward of no. 85 the house immediately to the south-west. The dormer as-built takes up a large proportion of the roof slope, coming close to both the ridge and eaves. This compares with the approved design, which would have been set well down from the ridge. It is set forward of the approved position, resulting in significantly greater prominence. To my mind the dormer is itself of significantly greater scale than that approved and serves to emphasise the already somewhat bulky appearance of no. 83. It is a dominating and overbearing feature of the roof*

*when approaching the house along Bell Common from the south-west.*

*I find the dormer window to be in incongruous element in the context of the small-scale domestic buildings that are prevalent in the Conservation Area and conclude that the development causes significant harm to its character and appearance. The dormer does not accord with the development plan, particularly in terms of Policies HC6 and HC7 of the Epping forest District Local Plan of 1998 and Adopted Alterations of 2006. These seek to prevent development that could be detrimental to the character, appearance or setting of a conservation area, and include aims to ensure development is of a particularly high standard to reflect the quality of the environment, and is sympathetic to the character and appearance of the conservation area.*

*Paragraph 196 of the National Planning Policy Framework (NPPF) advises that where a development would cause less than substantial harm to the significance of a designated heritage asset – such as a conservation area – this harm should be weighed against the public benefits of the proposal. The harm caused to the Conservation Area in this case must be regarded as less than substantial. However, the dormer provides an entirely private benefit, and there are no public benefits to be weighed against the harm I have found. (The full transcript is laid out in appendix 1 of this report).*

#### Current application

The site is located within the Bell Common Conservation Area. The Local Planning Authority therefore has a legal duty under S72(1) of the Planning and Listed Building and Conservation Areas Act 1990 to ensure that all development within this location preserves or enhances its character or appearance.

Paragraph 194 of the NPPF requires where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The current application does not change the size of the dormer but instead seeks to only reduce the gradient of the existing cat slide roof to create an almost flat alternative.

The Conservation Officer has found that whilst the proposal will result in there being an increased the gap between the dormer and the highest part of the ridge of the roof this will be achieved “*by squatting the dormer, which was originally designed as a catslide. The sharp angled appearance of the very shallow roof is considered even more harmful than the existing appearance, as it gives a very ‘boxy’ appearance to the dormer window.*”

The conclude that “*the overly large size of the face of the dormer and its position on the roof slope has still not been dealt with.*” These changes therefore do not overcome the previous concerns raised in the Planning Inspector’s decision letter or those raised by the reason for refusal under reference EPF/2955/17.

There is no public benefit in allowing the scheme so it does not meet the test outlined in paragraph 194 of the NPPF. As such the proposal continues to be contrary to the requirements of policies HC6 and HC7 of the Local Plan and Alterations (1998 and 2006) and policy DM7 of the Submission Version Local Plan (2017).



### Impact on the living conditions of neighbouring residential occupiers

The side elevation dormer window on the south west facing elevation, which faces 85 Bell Common, looks directly onto the front forecourt of this neighbour. It is on balance considered that since the outlook is to a public area, there will not be an excessive impact in privacy in comparison to the previously approved scheme. The proposal therefore complies with the requirements of policy DBE9 of the Local Plan.

### **Conclusion**

The proposed dormer, due to its position, size and appearance appears at odds with neighbouring properties and as a result is harmful to the character and appearance of the streetscene and Bell Common Conservation Area. It is for this reason, and the fact that the revisions made fail to address the concerns raised by the Planning Inspectorate in the dismissal of the Enforcement Notice appeal under reference ENF/0702/16, that the proposed dormer remains of poor design and as such paragraphs 194 and 130 of the NPPF, policies HC6 and HC7 of the Local Plan and Alterations (1998 and 2006), and policy DM7 of the Submission Version Local Plan (2017) require that it should be refused.



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## Appeal Decision

Site visit made on 30 July 2019

by **Stephen Brown MA(Cantab) DipArch RIBA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09 September 2019

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### Appeal Ref: **APP/J1535/C/18/3205759**

### Land at **83 Bell Common, Epping CM16 4DZ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is by Paul Commins (PC & AD Developments Ltd) against an enforcement notice issued by Epping Forest District Council.
  - The enforcement notice, ref. ENF/0702/16, was issued on 25 May 2018.
  - The breach of planning control alleged in the notice is without planning permission the unauthorised construction of a dormer positioned on the south-west facing elevation.
  - The requirements of the notice are to:
    - (i) Remove the side dormer window in the south-west elevation, OR
    - (ii) Alter the building to accord with the plans approved under planning permission ref. EPF/2829/16.
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, so the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Town and Country Planning Act as amended (the Act).

### Preliminary matters

2. The appeal site lies within the Bell Common Conservation Area. I have therefore paid special attention to the desirability of preserving or enhancing the character and appearance of that area as required by s.72(1) of the Planning (Listed buildings and Conservation Areas) Act 1990 as amended.

### Background matters

3. The appeal property is a detached house of two storeys with an attic floor standing on the south-eastern side of Bell Common. It is quite recently built following grant of planning permission for a three-storey detached dwelling in replacement for a previously existing two-storey house<sup>1</sup>. An application was made in 2017 for retention of the dormer as-built, but this was refused<sup>2</sup>.

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<sup>1</sup> Decision notice ref. EPF/2829/16.

<sup>2</sup> Decision notice ref. EPF/2955/17.

### **The appeal on ground (a) and the deemed planning application**

4. This ground is that planning permission should be granted for the matters stated in the enforcement notice.
5. From my inspection of the appeal site and surroundings, and all that I have read I consider the main issue in this appeal to be the effect of the alleged unauthorised development on the character and appearance of the Bell Common Conservation Area.
6. The Conservation Area includes development along the northern side of High Road, that along the south-eastern side of Bell Common, and the area of rough woodland between. Development is highly varied including several listed buildings, farmhouses, and vernacular cottages built from the early 17<sup>th</sup> century onwards. Houses nearby to the appeal site are mainly 20<sup>th</sup> century of a conventional pattern. The overall character is of attractive small-scale domestic buildings in a quiet semi-rural setting.
7. The Council say the dormer is significantly different from that approved in that the dormer face is nearly double the size, the top is closer to the ridge line by some 800mm, and it is about 1 metre further towards the front of the house. This is exacerbated by the fact that the new house is significantly higher than those adjacent by about 1 metre. The appellant does not dispute these assessments and argues that the differences are relatively minor.
8. The new house is a replacement for a modestly sized one-and-a-half storey house. As the Council say, it is about a metre higher than the houses to either side, which already increases its scale and prominence in the street scene. This is also a result of standing well forward of no. 85 the house immediately to the south-west. The dormer as-built takes up a large proportion of the roof slope, coming close to both the ridge and eaves. This compares with the approved design, which would have been set well down from the ridge. It is set forward of the approved position, resulting in significantly greater prominence. To my mind the dormer is itself of significantly greater scale than that approved and serves to emphasise the already somewhat bulky appearance of no. 83. It is a dominating and overbearing feature of the roof when approaching the house along Bell Common from the south-west.
9. I find the dormer window to be an incongruous element in the context of the small-scale domestic buildings that are prevalent in the Conservation Area and conclude that the development causes significant harm to its character and appearance. The dormer does not accord with the development plan, particularly in terms of Policies HC6 and HC7 of the Epping forest District Local Plan of 1998 and Adopted Alterations of 2006. These seek to prevent development that could be detrimental to the character, appearance or setting of a conservation area, and include aims to ensure development is of a particularly high standard to reflect the quality of the environment, and is sympathetic to the character and appearance of the conservation area.
10. Paragraph 196 of the National Planning Policy Framework (NPPF) advises that where a development would cause less than substantial harm to the significance of a designated heritage asset – such as a conservation area – this harm should be weighed against the public benefits of the proposal. The harm caused to the Conservation Area in this case must be regarded as less than

substantial. However, the dormer provides an entirely private benefit, and there are no public benefits to be weighed against the harm I have found.

11. Various examples have been put forward of other dormers of substantial size in Bell Common and elsewhere. However, I have virtually no knowledge of when these were built, or under what planning regime. In any case the existence of other possibly poorly designed dormers cannot justify causing further harm to conservation area interests. The appeal on ground (a) does not succeed, and I intend to refuse planning permission on the deemed planning application.

#### **The appeal on ground (g)**

12. This ground is that the compliance period is too short. The appellant argues essentially that the 2-month period allowed would necessitate the required works to take place in the busiest time of year for building contractors, and that there should be a 6-month period.
13. The appellant accepts that the 2-month period would be adequate to allow the removal of the dormer and associated alterations. Should there be *bona fide* reasons that the works could not be carried out at a specific time, it would be open for the Council to extend the compliance period under the provisions of s.173(1)(b) of the Act. Provided the appellant could properly substantiate any reasons for delay I can see no reason why the Council should not do this.
14. I do not consider the compliance period should be extended, and the appeal on ground (g) therefore fails.

#### **Conclusions**

15. For the reasons given above and having regard to all other matters raised I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

***Stephen Brown***

INSPECTOR