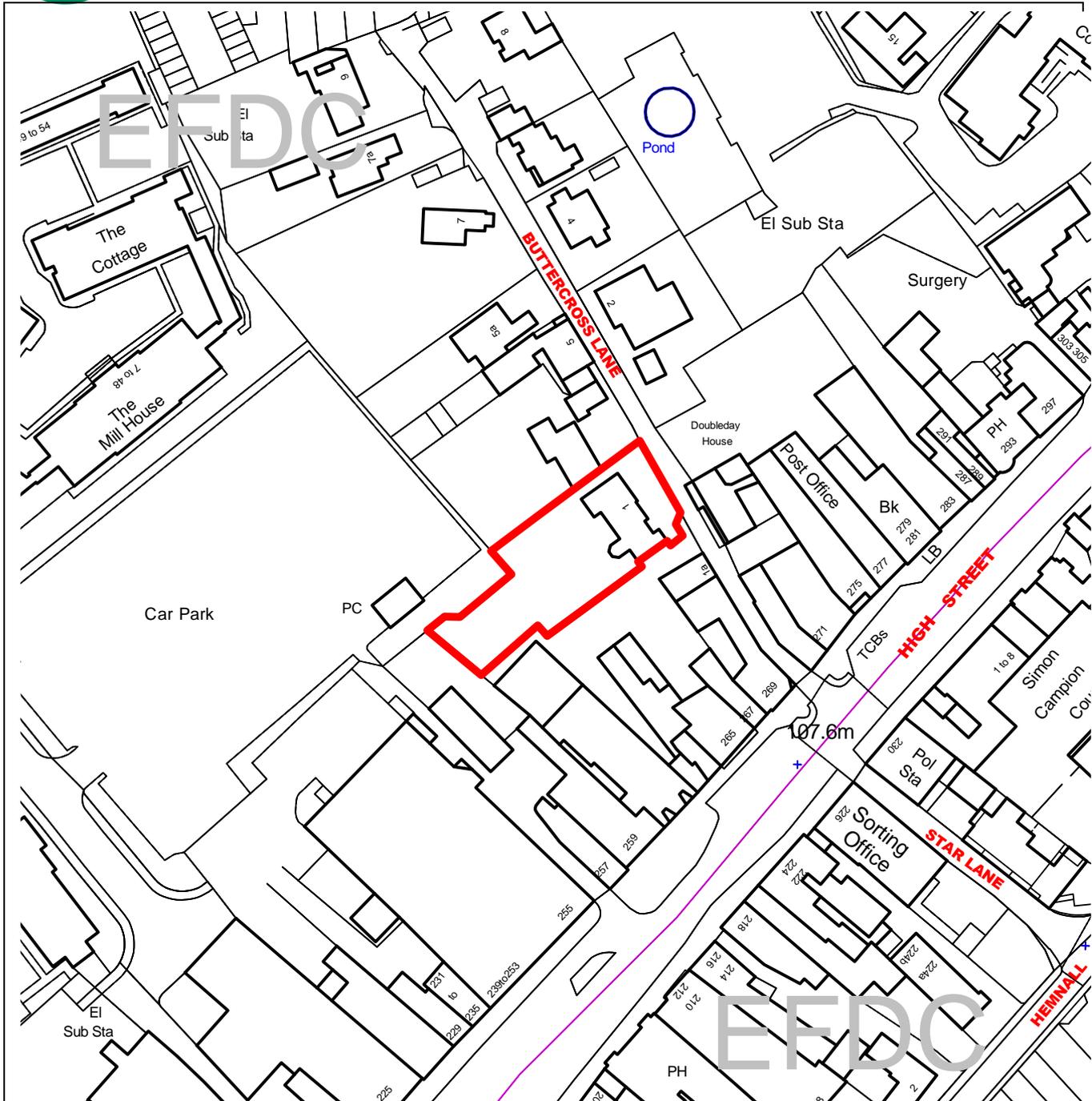




# Epping Forest District Council



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Application Number:	EPF/1120/20
Site Name:	1 Buttercross Lane Epping CM16 5AA
Scale of Plot:	1:1250

**Report Item No: 11**

<b>APPLICATION No:</b>	EPF/1120/20
<b>SITE ADDRESS:</b>	1 Buttercross Lane Epping CM16 5AA
<b>PARISH:</b>	Epping
<b>WARD:</b>	Epping Lindsey and Thornwood Common
<b>APPLICANT:</b>	Mr Robert Shaw
<b>DESCRIPTION OF PROPOSAL:</b>	Demolish existing property and erect one 3 bedroom house and three 2 bedroom apartments
<b>RECOMMENDED DECISION:</b>	Refuse Permission

**Click on the link below to view 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=637397](http://planpub.eppingforestdc.gov.uk/NIM_websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=637397)

**REASON FOR REFUSAL**

- 1 The demolition of the existing house and replacement with a building which sprawls into the rear garden, combined with the unbalanced rhythm of the façade composition and the different roof pitches, gives the appearance of several add-on extensions being applied to the main building. The front door to plot 1A is marked as being false and pargetting details in modern cementitious materials are proposed to the side elevations are features which are incongruous; within a Conservation Area fail to preserve the special significance of the setting of the adjoining Grade II listed building. The proposal therefore fails to take account of, or respect the character of the street scene, the character of the Conservation Area or the adjoining listed building. Furthermore, there is insufficient public benefit resulting of this development which would outweigh the harm identified. The proposal is therefore contrary to S66 (1) of the Planning and Listed Building and Conservation Areas Act 1990, chapter 16 of the NPPF, policies CP2(iv), CP7, DBE1, HC6, HC7 and HC12 of the Adopted Local Plan and Alterations along with DM 7 and DM 9 of the Submission Version Local Plan.
- 2 The proposed buildings would, by reason of their excessive bulk and massing, be unduly overbearing in relation to the adjacent house at no.3 Buttercross Lane. The proposal is therefore contrary to policies DBE2 and DBE 9 of the Adopted Local Plan and Alterations 2008, Policy DM 9 and of the Epping Forest District Council Local Plan Submission Version 2017 and the National Planning Policy Framework (2018).
- 3 The application does not provide sufficient information to satisfy the Council, as competent authority, that the development would not adversely affect the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such the development is contrary to Policies CP1 and CP6 of the Epping Forest Local Plan (1998) and Alterations (2006), Policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version (2017) and the requirements of the Habitats Regulations 2017.

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

**Description of Site:**

The application site covers an area of 0.1h site and has an irregular shape. It has a width of 21m and a depth of 57m. The site is located to the western side the cul-de-sac named Buttercross Lane and is accessed via a passage between the flank walls of buildings on the High Street within the built-up area of Epping.

The site is currently occupied by a two-storey detached house built in the 1950's with a maximum width of 17.6m. The site has a slight slope downwards in a northerly direction.

The area is characterised by close knit two storey dwellings and flatted buildings of mixed designs and styles with narrow frontages, predominantly two-storey with tiled roofs and rendered or brick walls. The south-west of the site is screened by mature trees and hedging and backs onto a car parking area and two storey buildings to the rear of the High Street. There is one TPO'd tree which straddles both the application site and the north western boundary of number 3 Buttercross Lane. To the immediate north of the site is a two-storey building, with a three-storey building to the east on the opposite side of Buttercross Lane.

The site falls within the Epping Conservation Area. The application building is not listed, however, there is a Grade II listed building to the south of the application at 269 High Street. (The ground floor of the building is currently in use as a shop by the retailer 'Fatface').

**Description of Proposal**

Permission is sought for the demolition of the existing property and erection of one, 3-bedroom house and a block of three, 2 bedroom apartments.

**Relevant History:**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>
EPF/0324/20	Certificate of lawful development for a proposed single storey rear extension. (Revised application to EPF/2973/19).	Lawful
EPF/2973/19	Application for a Lawful Development Certificate for a proposed single storey rear extension.	Not lawful
EPF/2447/19	Demolish existing house and replace with x6 no. apartments	Refuse Permission

Reasons for refusal:

- (1) The scale of the proposed development will encroach into the current empty space where the south elevation of the proposed dwelling is to be constructed and as a result will erode the appreciation of the setting of the Grade II listed building at No.269 High Street when viewed from further down Buttercross Lane and looking up towards High Street. Furthermore, the monumental design of the proposal has a dominant impact on the street scene in relation to its position at the entrance to Buttercross Lane and the buildings beyond it.

The form of the building appears incongruous in this setting. The roof form of the proposed dwelling is flat topped, and this horizontal element accentuates the depth of the building when viewed from the south. The accommodated roof area and inclusion of box dormers add to the sense of increased mass. It for these reasons that the proposal will adversely affect the setting of this listed building and will harm the wider character and appearance of the Epping Conservation Area within which the site is situated. The proposal is therefore contrary to the requirements of CP7, DBE1, HC6, HC7 and HC12 of the Local Plan and Alterations (1998 and 2006), policy DM7 of the Submission Version Local Plan (2017), and chapters 12 and 16 of the NPPF (2019).

- (2) The application does not provide sufficient information to satisfy the Council, as competent authority, that the development has not adversely affected the integrity of the Epping Forest Special Area for Conservation and there are no alternative solutions or imperative reasons of overriding public interest why the development should be permitted. As such, the development is contrary to policies CP1 and CP6 of the Adopted Local Plan and Alterations, policies DM2 and DM22 of the Submission Version Local Plan 2017 and the requirements of the Habitats Regulations 2017.

EPF/0225/19	Demolish existing house and replace with 6 apartments and 1 terraced house (Revised application to EPF/1583/18)	Withdrawn
EPF/1583/18	Demolish existing house and replace with 9 apartments	Refused and dismissed on appeal
Reason for refusal:		
<p>(1) The proposed building would, by reason of its excessive height, bulk and massing, harm the appearance of Buttercross Lane and be unduly overbearing in relation to the adjacent house at no.3 Buttercross Lane, as well as fail to conserve or enhance the character of this part of this conservation area, contrary policies DBE2, HC6 and HC7 of the Adopted Local Plan and Alterations 2008, Policies DM 7 and DM 9 and of the Epping Forest District Council Local Plan Submission Version 2017 and the National Planning Policy Framework (2018). PINS decision letter attached as an appendix.</p>		
TPO/EPF/0001/75	Proposed lopping of preserved tree in rear garden	Approved with conditions
EPU/0073/58	Erection of dwelling house	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:

CP1	Achieving sustainable development objectives
CP2	Protecting the quality of the rural and built environment
CP3	New development
CP4	Energy conservation
CP5	Sustainable building
CP6	Achieving sustainable urban development patterns
CP7	Urban form and quality
HC6	Character, Appearance and setting of Conservation Areas
HC7	Development within Conservation Areas
HC12	Development affecting the setting of Listed Buildings
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	Excessive loss of amenity to neighbouring properties
DBE11	Sub-division of residential properties
ST1	Location of development
ST2	Accessibility of development
ST4	Road safety
ST6	Vehicle parking
H2A	Previously developed land
H3A	Housing density
H4A	Dwelling mix
LL11	Landscaping schemes
RP4	Contaminated land
NC1	SPAs, SACs and SSSIs
NC4	Protection of established Habitat

## 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.

## **EPHING 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
SP2 - Spatial Development Strategy 2011-2033	Some
SP3 - Place Shaping	Significant
SP7 - The Natural Environment, Landscape Character and Green and Blue Infrastructure	Significant
H1 - Housing Mix and Accommodation Types	Some
T1 - Sustainable Transport Choices	Significant
DM1 - Habitat Protection and Improving Biodiversity	Significant
DM2 - Epping Forest SAC and the Lee Valley SPA	Significant
DM5 - Green and Blue Infrastructure	Significant

DM6 - Designated and Undesignated Open Spaces	Significant
DM7 - Heritage Assets	Significant
DM9 - High Quality Design	Significant
DM10 - Housing Design and Quality	Significant
DM11 - Waste Recycling Facilities on New Development	Significant
DM15 - Managing and Reducing Flood Risk	Significant
DM16 - Sustainable Drainage Systems	Significant
DM17 - Protecting and Enhancing Watercourses and Flood Defences	Significant
DM18 - On Site Management of Waste Water and Water Supply	Significant
DM19 - Sustainable Water Use	Significant
DM20 - Low Carbon and Renewable Energy	Significant
DM21 - Local Environmental Impacts, Pollution and Land Contamination	Significant
DM22 - Air Quality	Significant
P1 - Epping	Significant

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

33 Neighbours were consulted, and a site notice was displayed.

#### **Responses:**

**THE LITTLE HOUSE, 3 BUTTERCROSS LANE, 2 BUTTERCROSS LANE, 4 BUTTERCROSS LANE, 5A BUTTERCROSS LANE, 6 BUTTERCROSS LANE, 9 BUTTERCROSS LANE, ROSE FARM, 4a INGELSMEAD, OBJECT:**

- The designation of the site as being within the Epping Conservation Area outweighs the policy requirement to allow of the intensification of the existing settlement.
- The proposal will result in the loss of space within the southern side of No. 1 which 'creates a sense of space at the top of the Lane' and is a 'transitional element'.
- The depth of the present dwelling is 8.9 metres similar to the average depth of other dwellings in the Lane. The proposed block of flats extends 22.7 metres in depth and is, therefore, 13.8 metres beyond the rear of the existing dwelling within a CA.
- The excessive depth of the block will be obvious when viewed from Buttercross Lane where the proposed building is well above the top of the boundary wall to the south of No. 1. This will present an unsightly bulk or mass of building along the southern side boundary some 22.7 metres long. will also impinge on the outlook from the rear garden to No. 3.
- Increased number of cars is detrimental to neighbouring amenity

- The depth of the proposed house is 13.5metres, an increase of 4.6 metres over the existing house, having, therefore, greater impact on the outlook to the rear of No.3 and will impinge on the 45 degree sight line to the door/window opening of the dining area to that property.
- The residential units in Buttercross Lane comprise detached dwellings and the proposed flats would be an alien form of development.
- Increased traffic congestion and creation of a safety hazard there are many pedestrians using this thoroughfare as access to the High Street.
- The two-storey element of flats will increase the dominant effect of building at variance with the single storey structure now evident to the southern side of No.1 The increased ridge height of the flats above the adjoining proposed house will further increase this adverse appearance.
- Site should be made into a community garden
- 2m wall along with the depth, scale and width of development is out of character with the area, overdevelopment which will undermine the Conservation Area.

### **EPPING TOWN COUNCIL OBJECT**

Committee acknowledged that this is the fourth attempt to gain planning approval for a development on the site of a family house. Three previous applications to this housing proposal were opposed by the Town Council and two of them were refused permission by Epping Forest District Council, the other application was withdrawn. Committee agree that while the latest proposal of three two-bedroom apartments and one three-bedroom house is a better application than the original nine apartments, this proposal has not addressed their previous concerns. The Town Council received two resident objections to these latest proposals.

Whilst Committee note the amended plans, these have not addressed Committee previous concerns regarding the conservation area, access and overdevelopment. The changes made create a proposal which occupies two stories in two separate buildings, 1A containing the three two-bedroom apartments and 1B containing the three-bedroom house replacing one family house, make it overdevelopment in this sensitive setting. This proposal would have a negative effect on the conservation area and not in keeping with the streetscene. The materials being proposed for this proposal are UPVC for the windows and doors which are not appropriate for a conservation area setting.

Buttercross Lane has a vehicle access problem with the current number of houses located on this very small lane and this proposal would make the issue far worse with the extra traffic.

The vast increase in the number of vehicles using the property would have a harmful effect on Highway safety and on the character of the area through which the new traffic would move making the road dangerous. The entrance to Buttercross Lane is extremely narrow and traffic already exits onto pedestrian pathways, in a busy High Street and Market Town.

There also would not be enough parking spaces provided for occupants and visitors for these three two-bedroom apartments and one three-bedroom house on this site proposal.

National policy states that the character of individual areas must be taken into consideration and this development does not respect the conservation area of the town centre. Apartments do not respect the predominantly detached family homes in this historic location. Local and national policy state that the emphasis should be improving the quality of life in urban areas, not reducing that quality for future generations.

Committee note the holding objection from EFDC Trees and Landscape team regarding the latest planning application concerning the inadequacy of the provision of landscape and trees retention and they comment specifically on the arboricultural report which had not been updated since the

first original application in 2018. Previous work on the site has resulted in the loss of trees and greenery on this site which is regrettable and has resulted in a significantly altered vista for the neighbouring properties. This is a concern to the committee and the remaining trees and landscape on the site need to be carefully managed as with any housing application.

Relevant policies: CP1, CP2, CP6, CP7, DBE1, DBE2, H3A, H4A, HC6, HC7, HC12, LL10, LL11, ST4, ST6.

Emerging Local Plan: H1A (ii) & (iii), DM2, DM3, DM5B, DM7, DM9A, SP3, SP7, T1.  
NPPF: Paras 9, 17, 53, 55

Epping Town Council confirm they will attend and speak at Plans East to object to this proposal.

### **APPLICANT'S RESPONSE:**

- The reasons for the decision of the Planning Inspectorate were not discussed or considered by the committee.
- Epping Forest District Local Plan, Planning Policy P1 sets out the policies for Epping Town and *state "that the most appropriate spatial options are:  
Intensification within the existing settlement  
Focussing development on previously developed land,*
- The National Planning Policy Framework has similar requirements for maximising density.
- This foundation policy of the EFDCLP was not discussed or considered by the committee.
- Whilst the proposal is denser than the existing house – it does have a lower density than the close neighbours within the Conservation Area of Buttercross Lane
  - Number 5 Buttercross has a house footprint to plot size ratio of 62%.
  - Number 2 has a house footprint to plot size ratio of 34%.
  - The proposal has a density of around 25%.
- The two small residential buildings with neat landscaped front gardens clearly identify the transition between commercial and residential parts of Buttercross Lane.
- Drawing number 4 shows that the rear single storey apartment is unobtrusive both when viewed from No 3 and as you walk down Buttercross Lane.
- The mass of the south elevation is just 51% of the mass of the proposal that was refused at Appeal by Planning Inspectorate. A significant reduction from the earlier refused scheme.
- ARA has offered to change the front elevation designs if preferred.
- The extra vehicles equate to an increase of 4% - clearly not a "vast" increase as claimed by the Town Council.
- As shown on Drawing Sc4/ 6 - the proposal has a lower density than close neighbours.
- Buttercross lane is a residential area.
- The houses in the Lane are each individual with no consistent architectural style.
- The houses in the Lane are of various sizes – the majority larger than the proposal but many are of similar size or smaller.
- The proposed houses have front elevation designs taken from the Essex Design Guide.
- The proposal has landscaped front gardens – whereas the majority of houses in the Lane either have no front gardens or they are paved for car parking.
- The proposal consequently improves the character of the area.

### **Main Issues and Considerations:**

The main issues to consider when assessing this application are the principle of the development along with the potential impacts on the integrity of the Epping Forest Special Area of Conservation; the setting of the Grade II listed building and character and appearance of the wider Epping Conservation Area; the living conditions of existing and new residents in and around the site; highway safety; and parking.

## Background

A previous scheme under reference EPF/1583/18, which proposed a block of 9 flats, was refused by members of the District Development Management Committee dated 28 November 2018. The reason for refusal was:

*The proposed building would, by reason of its excessive height, bulk and massing, harm the appearance of Buttercross Lane and be unduly overbearing in relation to the adjacent house at no.3 Buttercross Lane, as well as fail to conserve or enhance the character of this part of this conservation area, contrary policies DBE2, HC6 and HC7 of the Adopted Local Plan and Alterations 2008, Policies DM 7 and DM 9 and of the Epping Forest District Council Local Plan Submission Version 2017 and the National Planning Policy Framework (2018).*

They suggested that the way forward for the future development of the site would be to reduce the height of the building by a storey, so that it would appear more in keeping with its surroundings, subject to an appropriate design and appearance in keeping with the character of this conservation area and street scene.

The decision was appealed and the Inspector in his dismissal of the appeal opined that: -

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 weatherboarding and design features similar to Doubleday House, which is itself incongruous with the prevailing residential built form of the Lane, would reinforce this disassociation.*

He also raised concerns about the harm to the living conditions of no3 Buttercross Lane which have been addressed in the neighbouring amenity section of this report.

Since the determination of that application the weight given to policies within the emerging SVLP has increased. This is because during the examination hearings, a number of proposed Main Modifications of the LPSV were 'agreed' with the Local Plans Inspector on the basis that they would be subject to public consultation in due course.

A subsequent application ref. EPF/2447/19 sought consent to demolish the existing house and replace it with six apartments. This was refused as it failed to address the concerns previously raised by the Inspector.

The applicant then submitted a new scheme under reference EPF/2447/19 for the demolition of the existing house and replacement with 6 no. apartments. This application was refused on the grounds of its monumental design and impact on the integrity of the Epping Forest Special Area of Conservation. An appeal decision is pending in relation to this application.

Current plans have been amended from this previous refusal to now provide 1 block of 3 flats and 1 no. 3-bedroom house.

### Policy

As part of the process of producing the emerging Local Plan, sites work was undertaken to establish what economic and housing growth was required for the plan period 2011-2033. This site was put forward by the site owner for allocation within the Local Plan. by ARUP on behalf of Epping Forest District Council under reference SR-0830 (Site east of Buttercross Lane, Epping, Essex). The site did not proceed beyond stage 3 of the site selection process because it ranked lower in the land preference hierarchy compared to other more sustainable sites. This is because, although it was known that the site is in sole ownership, it was found that it would not be available for development during the Plan period. The site could proceed as windfall development but is not proposed for allocation.

Policy SP 2 of the Submission Version Local Plan stipulates that Epping has a growth requirement of 1305 homes.

LPSV Policy P 1 Epping sets out the proposals for development on allocated sites within Epping.

The sites proposed for allocation will cumulatively provide for the desired growth in the settlement of approximately 1305 homes. The proposal seeks housing on land outside the locations identified for development in the Plan. Nonetheless, the site is located within Floodzone 1, meets the definition of Previously Developed Land, and is within an urban settlement. It therefore could be considered as a windfall site subject to the proposal not having an adverse impact on the integrity of the Epping Forest Special Area of Conservation.

### Epping Forest Special Area of Conservation

The Conservation of Habitats and Species Regulations 2017 requires that the Council considers the likely significant effect of development on designated European sites. Policy DM22 of the LPSV requires that larger proposals, or those that have potential to produce air pollution, to undertake an air quality assessment that identifies the potential impact of the development, together with, where appropriate, contributions towards air quality monitoring. Assessments shall identify mitigation that will address any deterioration in air quality as a result of the development, having taken into account other permitted developments, and these measures shall be incorporated into the development proposals. This will include an assessment of emissions (including from traffic generation) and calculation of the cost of the development to the environment. All assessments for air quality shall be undertaken by competent persons.

This policy applies to development of all types and all locations as they all have the potential to result in increased traffic generation which would put pressure on the roads through the Epping Forest.

The Epping Forest covers a large area of land within the District and much of the Forest is designated as a Special Area of Conservation (SAC). Biodiversity features within or associated with; these designations enjoy the highest level of protection under UK and EU Law and UK planning policy. Epping Forest SAC is designated a 'European Site' and as the Conservation of Habitats and Species Regulations 2017 as amended ("the Habitats Regulations") requires that the Council, as the competent authority, must before deciding to grant planning permission make an appropriate assessment of the implications of the development for the SAC in view of the SAC's nature conservation objectives where it is likely that the development is likely to have a significant effect on the SAC (either alone or in combination with other development) and where the development is not directly connected with or necessary to the management of the SAC. This appropriate assessment is known as a Habitats Regulation Assessment (HRA).

Under the Habitats Regulations, the Council may, if it considers that any adverse effects of the development on the integrity of the SAC would be avoided if the planning permission were subject to conditions or limitations, grant planning permission, subject to those conditions or limitations. The approach may vary depending on the scale and nature of the proposal.

Two specific issues in particular have been identified that could result in development have a likely significant effect on Epping Forest SAC. These are:

1. Increased visitors to the Forest arising from new development within 6.2km of the SAC.
2. Damage to the health of the flora, including trees and potentially the heathland habitats, from air pollution primarily generated by vehicles.

This application would result in a net increase in vehicle movements and therefore a likely significant effect on air quality as it relates to the Epping Forest SAC cannot be screened out at this point in time. It is also likely to lead to increased visitor pressure on the SAC given its location within the 6.2km Zone of Influence.

The applicant has submitted a 'EFSAC Statement' this statement does not qualify as an appropriate assessment. This statement outlines why the applicant consider the application will not adversely affect the EFSAC.

The reasons stipulated are: -

1. Vehicles from the proposed development will have no need to travel near or through the Epping Forest SAC Vehicles from the proposed development are not 'expected' to travel on roads near the SAC.
2. Differentiating between and quantifying the pollution at the site of the SAC attributable to the various sources is scientifically impossible with any degree of accuracy.
3. The air pollution at the site of Epping Forest SAC derives from various sources, some of which are substantial and significant and are not related to development within EFDC area
4. The De Minimis Position.

The Council's response to this statement is that: -

Evidence collated as background data to Local Plan Habitats Regulations Assessment (HRA) and Mitigation Strategy included Visitor Survey assessment (undertaken by Footprint Ecology); Updated transport and air pollution modelling; Identification of proposed mitigation measures to address recreational and air pollution impacts which found evidence that there would be high likelihood that future residents would travel near or through the Epping Forest SAC. Quantifying pollution impacts is the purpose of the HRA.

Natural England's current advice with regards to AAs in relation to atmospheric pollution is that any identified in combination effects are best dealt with by way of a strategic solution, as the level of assessment required would be unduly onerous for it to be dealt with on a case-by-case basis, and the most effective forms of mitigation are unlikely to be deliverable by individual applicants. The site falls outside of the sites allocated within the emerging Local Plan and therefore the impact of development on this site has not been evaluated through the Epping Forest Habitats Regulations Assessment. The proposal along with other windfall sites would therefore generate pollution which would be in addition to that already collated. The de-minimus position does not take into account the in combination affects of all plans and projects within the District and therefore would not meet the precautionary approach required by the Habitats Regulations therefore any approval of this scheme without an appropriate assessment would be unlawful.

The proposal development, which does not accord with the Development Plan, would increase traffic generation to and from the site and it is concluded that the development proposal, both alone and in combination with other plans and proposals, would have an adverse effect on the integrity of the SAC through the intensification of nitrogen deposition in the protected area by additional traffic generated. At present, there are no suitable proposals to mitigate this adverse effect. The circumstances envisaged in Circular 06/05 - such as development overriding the public interest - that could lead to the grant of planning permission are not applicable in this case. This is demonstrated further down within this report.

In this circumstance, paragraph 177 and para 11(d) (i) requires that the tilted balance towards the presumption in favour of sustainable development does not apply and instead this development should be restricted. It is also for this reason that the proposal does not accord with the spatial preference hierarchy contained within policy SP 2 of the SVLP.

#### Impact on the setting of the Listed building and Conservation Area.

The site falls within Area 7 (Buttercross Lane) of the Epping Conservation Area. The character appraisal defines this area as: -

*A quiet residential cul-de-sac off the High Street that has a unique character of its own. The entrance to the lane is beside 269 High Street; an early 19th century weather boarded building. The narrow lane curves round to the right where it leaves the High Street. Beyond this, on the left-hand side, there are a couple of two storey 20th century dwellings set back from the lane and a small 19th century red brick building which may have been a coach house. The opposite side of the lane contains a large 3 storey block of flats beyond which is a high red brick wall which once formed part of a private garden that belonged to Henry Doubleday in the late 19th century. Although now mainly overgrown, the garden still contains a small 19th century garden pavilion in the corner. The narrowness of the lane, the lack of defined pavements, the numerous trees, the traditional style lamp posts and the scarcity of cars give this area a slightly quaint and charming character.*

Paragraph 193 of the NPPF requires that "When considering the impact of a proposal on the significance of the designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater weight should be given to its conservation. Significance can be harmed or lost through (inter alia) development within its setting".

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 proposal was reviewed by the Conservation Officer who made the following comments: -

#### ***A sensitive context:***

*No. 1, Buttercross Lane is a late 20th century detached house that stands at two storeys, with a single storey garage to the south-east. The site stands within the Epping Conservation Area and the setting of No. 269, High Street, listed at grade II.*

*The Epping Conservation Area Character Appraisal recognises No. 1, Buttercross Lane as a building with a neutral impact on the conservation area. Although it is an expected building of its time and is considered to be of limited architectural interest, its prominent position, at the head of the lane gives it a particular significance within this part of the conservation area. The bulk of the building is concentrated on the northern elevation, away from the listed building and this creates a sense of space at the top of the lane. This distinctive space, above the current garage, is a vital*

element of the character of Buttercross Lane as it acts as a buffer, moving from the busy High Street to the quieter residential lane.

### **Relevant planning history:**

The planning history on the site is relatively substantial; the following applications are the most relevant to this current scheme.

A decision was dismissed at appeal, concerning application ref. EPF/1583/18 to demolish the existing house and replace it with nine apartments. The Inspector gave weight to the role that the current building has in preserving the character of this part of the conservation area and said:

*“...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.”*

A subsequent application ref. EPF/2447/19 sought consent to demolish the existing house and replace it with six apartments; this was refused as it failed to address the concerns previously raised by the Inspector. It was thought that the proposal would adversely affect the setting of No. 269 High Street and harm the character and appearance of the conservation area. Following this refusal, some feedback was given by email to the applicant on plans for the demolition of the existing house and the construction of one 3-bedroom house and three 2-bedroom apartments. It was thought that this scheme also failed to appreciate the importance of retaining the sense of space at the top of the lane. The applicant was advised to revise the scheme considering the sensitive grain of development in Buttercross Lane (the layout, scale and form of buildings), distinctive to this part of the Epping Conservation Area.

### **Current scheme for assessment:**

The current scheme seeks consent to demolish the existing property and erect one 3-bedroom house and three 2-bedroom apartments.

Plot 1A is proposed to stand where the garage of the current building is. The building consists of three units with a front elevation running parallel with the lane and standing at 9 metres, the rear part extends perpendicular from this stepping down from two storey to single storey, giving the building a depth of 12 metres. The sprawl of the building, combined with the unbalanced rhythm of the façade composition and the different roof pitches, gives the appearance of several add-on extensions being applied to the main building. The front door to plot 1A is marked as being false and pargetting details in modern cementitious materials are proposed to the side elevations. These elements are considered to be incongruous; the front elevation should feature a functional door. Although references from the Essex Design Guide are encouraged, the use of traditional detailing such as pargetting in the context of a modern building, should always be treated with care as it can easily result in an unfortunate pastiche. The proposed use of ivory or white coloured render will give the building a plain appearance, increasing its bulk. A careful choice of materials, providing some contrast is strongly recommended as it would help break the bulk while adding some interest to the building composition.

It is felt that plot 1B may be of a more acceptable scale than plot 1A. The front elevation of the building now shows several brick details which, according to the supportive information, have come from the Essex Design Guide. As expressed above, the use of traditional detailing should always be treated with care as it could result in an over complex appearance, as is the case here. This is further reinforced by the high number of windows which are proposed to be ‘timber effect’ and as an untraditional material, are not welcomed within a conservation area. The remaining

*elevations, internal layout and roof plan have not been included in the application and therefore a fuller assessment of the proposed building cannot be made.*

*Plot 1A and plot 1B show the inclusion of a chimney on the front elevation plans (drg. SC4/3A) however its position and size are not shown on any other elevations or the roof plan. We question the need for non-functional elements and feel that they should not be included. Regarding the roof layout, we notice that the roof plan is incorrectly drawn on plans for plot 1A and does not correspond to the elevations provided and the roof plan for plot 1B has not been included.*

*The development of the site does not seem to have been approached with a coherent design strategy that utilises family forms, proportions and materials etc. We feel that a new development should be an opportunity to rationalise the built form and to prioritise the use of simple traditional forms and vernacular materials, and which we feel has not been achieved here.*

*In line with the above, we cannot give our support to this scheme as we feel that it fails to preserve or enhance the character or appearance of the conservation area and adversely affects the setting of a listed building. We therefore recommend that planning permission is refused.*

*This is supported by policies HC7, HC9 and HC12 of our Local Plan and Alterations (1998 and 2006), policy DM7 of our Submission Version Local Plan (2017), and paragraphs 189, 190, 194, 196, 200 and 201 of the NPPF (2019).*

## Design

The heritage designation of the site and detailed conservation area character appraisal of the application's locality demonstrate that the character of the existing area is of high quality.

Paragraph 127 of the NPPF requires that "Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting."

Whilst it is acknowledged that this revised scheme is consistent with the spatial standards of the street, and it is recognised that the front curtilage will in part be covered in soft landscaping to help soften the development, the proposed development would result in the loss of the openness above the existing garage and subdivide the existing property into two disproportionately narrow curtilages. The extent of the built of development at 1A Buttercross Lane would be visible looking north west from Buttercross Lane coming from the High Street. The proposal also for these reasons fails to meet the requirements of CP2, CP7, DBE 1 and DBE 3 of the Local Plan and DM 9 D of the SVLP which require that new buildings should be sympathetic to their setting in terms of scale and proportion, massing and roof line.

## Quality of resulting residential accommodation

All dwellings meet current internal space standards set out in the Essex Design Guidelines and National Technical Standards. The proposal therefore meets the requirements of policy DM10 of the SVLP.

## Trees

The site is in conservation area therefore consent is required for the any works to trees that have a trunk diameter of more than 75mm when measured 1.5m from the ground. Policy DM5 of the Submission Version Local Plan requires that development proposals must demonstrate that they have been designed to retain and where possible enhance existing green infrastructure, including

trees, hedgerows. This policy also seeks to increase the number of long living trees within development proposals in order to meet biodiversity and sustainability goals.

The application was reviewed by the Trees and Landscape Officer who found the revised arboricultural impact and method statements to be acceptable. It is on this basis that the proposal complies with the requirements of LL10 and LL11 of the Adopted Plan.

#### Impact on the living conditions of neighbouring residential dwellings.

There is a six-metre gap between plot 1A Buttercross Lane and the side flank of neighbouring residential property also known as 1A Buttercross Lane. The kitchen/ lounge room window facing the application site is a secondary one and therefore a condition can be attached to any permission requiring that it be obscure glazed.

The existing building on the application site extends approximately 2.4m beyond the front building line of 3 Buttercross Lane. However, it is also separated from the mutual boundary with this neighbour by a distance of 2.7m.

The proposal will result in Plot 1B having a side flank wall which is 0.9m away from this neighbour and will extend beyond this neighbour's front elevation by a similar depth.

The two-storey element of this proposed building will also extend just over 1m beyond the rear elevation of this neighbour. The single storey rear projection will extend a further 3m but will be separated from this neighbour by a distance of 2.4m. The footprint of this projection has also been approved as lawful under reference EPF/0324/20. Given the distance of the proposal from no 3 Buttercross Lane it is not considered that the 45-degree angle guidelines on light will be impinged.

The applicant's comments are noted that the scheme has reduced its bulk by 51% in comparison with the dismissed appeal proposal under reference EPF/1583/18. That proposal had a maximum height of 10.7m and a maximum depth of 24m. The scheme now proposes 2 blocks with block 1A to having a maximum height of 9m, then dropping down to 7.4m after a depth of 6m then reducing to a 3.75m height after a further depth of 6m. The two-storey element of this block extends over 3m beyond the rear elevation of number 3 Buttercross Lane and contains non habitable room windows in its northern flank elevation. There is currently a wall of approximately 1.2m high on the mutual boundary with the two properties and the ground level on the application site is 0.6m higher than that of the neighbour at 3 Buttercross Lane. Block 1A has a total depth of 23m and is 13.4m deeper than the existing building on the site. Therefore whilst it is acknowledged that this scheme is an improvement to the dismissed appeal, it still has a bulk and mass which causes an excessive sense of enclosure for the occupants of 3 Buttercross Lane and as such the proposal conflicts with the requirements of policies DBE2 and DBE9 of the Local Plan along with DM9(H) of the SVLP.

#### Other matters

As per their recommendations under the previous planning application under reference EPF/2447/19, no objections have been raised subject to conditions by the Highways Authority, Countrycare team (Ecology), Land Drainage Team ,or Land Contamination Team as from their perspective there has been no further significant changes to the proposal.

#### Conclusion:

The scale of the proposed development will encroach into the current empty space where the south elevation of the proposed dwelling is to be constructed and as a result will erode the appreciation of the setting of the Grade II listed building at No.269 High Street when viewed from further down Buttercross Lane and looking up towards High Street. The proposed development would sub divide the property into two disproportionately narrow plots. This would further reduce the

spacious suburban character of the area. It is for these reasons that the proposal will adversely affect the setting of this listed building and will harm the wider character and appearance of the Epping Conservation Area within which the site is situated.

This proposal would also detrimentally affect the outlook from No 3 Buttercross Lane causing significant harm to the living conditions of its occupiers.

Furthermore, since Natural England currently have raised concerns regarding the findings of the latest District wide Habitats Regulations Assessment, it has not been demonstrated that the proposal in combination with other plans and projects will not have an adverse impact on the integrity of the Epping Forest SAC, the Council therefore cannot grant planning permission. Refusal is therefore recommended.

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

***Planning Application Case Officer: Sukhi Dhadwar  
Direct Line Telephone Number: 01992 564597***

***or if no direct contact can be made please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***



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## 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: 14<sup>th</sup> May 2019

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**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 Appraisal<sup>1</sup>, 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

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<sup>1</sup> 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