

Officer Report
EPF/2527/25

Variation of Condition 2 Increase in height of EPF/2701/19 Allowed on Appeal
(Construction of an additional storey comprising 6 two-bedroom flats).
No. 13-22 Brook Parade, Chigwell, IG7 6PF

Site and Surroundings

No. 13-22 Brook Parade form part of a three-storey parade which includes commercial units at ground floor level and residential units within the upper floors. The building has a stepped roofline which corresponds with the slope of the street and has brick facades to its first and second-floor front elevations. The neighbouring building at Claremont Place is five storeys in height and a new development at No 185 Brook Parade is four storeys in height. The wider street scene also includes the four storey Dolphin Court which is situated on the opposite side of High Road and faces the application site.

Beyond the yards and gardens to the rear of No. 13-22 Brook Parade there is a row of single storey garages which are accessed from Brook Mews. The rear gardens of the mainly two-storey dwellings on Dickens Rise share boundaries with the opposite side of Brook Mews. Overall, there is variation in the design and height of buildings in the immediate area but the section of High Road and Brook Parade where the application site is situated includes buildings of more substantial height than the dwellings on nearby residential streets.

The property lies within 0km-3km radius of the Epping Forest Special Area of Conservation (the "EFSAC").

Proposal

A Section 73 application has been submitted to vary Condition 2 of planning application EPF/2701/19 that was refused by the Council but was allowed on appeal for the construction of an additional storey comprising 6 two-bedroom flats. The proposal seeks to raise the roof height of the approved development by 900mm.

Relevant Planning History

CHI/0136/57 - Erec of Block of 13 Shops with Flats above and Lock Up Garage at Rear. Approved with Conditions

EPF/2701/19 - Proposed construction of an additional storey comprising of x 6 no. two bedroom flats. Refused. Allowed on Appeal subject conditions (Appeal reference: APP/J1535/W/22/3293716)

EPF/2967/20 - Prior approval for the proposed construction of 1 x additional stories comprising of x 4 no. two bedroom flats (Revised application). Approved with Conditions.

EPF/1072/25 - Application for approval of details reserved by condition 5 (material details) on planning permission EPF/2701/19 (development proposed is the construction of an additional storey comprising 6 two-bedroom flats). Approved

Development Plan Context

Epping Forest Local Plan 2011-2033 (2023)

On 9 February 2023, the council received the Inspector's Report on the Examination of the Epping Forest District Local Plan 2011 to 2033. The Inspector's Report concludes that subject to the Main Modifications set out in the appendix to the report, the Epping Forest District Local Plan 2011 to 2033 satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 and meets the criteria for soundness as set out in the National Planning Policy Framework and is capable of adoption. The proposed adoption of the Epping Forest District Local Plan 2011 to 2033 was considered at an Extraordinary Meeting of the Council held on 6 March 2023 and formally adopted by the Council.

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

SP2 Place Shaping
T1 Sustainable Transport Choices
DM2 Epping Forest SAC and the Lee Valley SPA
DM9 High Quality Design
DM10 Housing Design and Quality
DM21 Local Environmental Impacts, Pollution and Land Contamination
DM22 Air Quality

National Planning Policy Framework December 2024 (Framework)
Planning Practice Guidance (PPG)

Summary of Representations

73 Neighbour Notification Letters were sent out by the Council

7 letters of representation received objecting to the application, the reasons for objection are listed below:

- The roof extensions are significantly higher than the approval gave consent to, and are now disproportionately large to the existing building
- Massive bulk and appearance
- Top heavy and visually unacceptable
- Disproportionate and overdevelopment
- Made conscious decision to carry out illegal work
- Out of character
- No parking provisions
- Overlooking and loss of privacy to occupiers at Dolphin Court and Dickens Rise

Internal and External Consultation Responses

ECC Highways - The proposed development has no highway implications, and we have no comments to make

Land Contamination – No objection

Chigwell Parish Council - Strongly object on the basis that the proposed increase in height would materially alter the envelope assessed and found acceptable at appeal and would be likely to cause harm to the character and appearance of Brook Parade and the wider street scene. The appeal decision's design conclusions relied on the proportions, roofline and overall balance shown on the approved plans. The design rationale relied upon by the Planning Inspector would no longer apply. Increasing height risks creating a more dominant and intrusive roof addition, disrupting the stepped profile of the parade and exacerbating perceived scale as the build progresses along the frontage where the cumulative effect of additional height is likely to be more pronounced. The Parish Council consider the submission does not provide sufficient clarity and confidence that the true height, massing and resulting visual impact have been accurately and transparently presented for assessment

Planning Considerations

The planning considerations in this case are as follows: -

- Principle of Development
- Impact on the Character and Appearance of the Site
- Residential Amenity
- Highways Impact
- Epping Forest Special Area of Conservation (the "EFSAC")

Main Considerations

Principle of Development

An appeal was allowed, subject to conditions, for the construction of an additional storey comprising of 6 x two-bedroom flats at No. 12-23 Brook Parade, Chigwell in October 2023

(appeal reference: APP/J1535/W/22/3293716) following the Council's refusal of planning application: EPF/2701/19. As there is an extant planning application on this site, the principle of development is therefore established. The main issues to consider when determining this application are discussed below.

Character and Appearance

Policy DM9 of the adopted Local Plan and the NPPF (2024) states that all new development must be of an appropriate design, scale and massing in keeping with the character and appearance of the site and the wider locality.

In Paragraphs 17-22 of the appeal decision APP/J1535/W/22/3293716, the Planning Inspectorate (PINS) had accepted that the development proposal would have an acceptable effect on the character and appearance of the area. In that regard, the proposal would comply with the design and character requirements of Policies SP2 (Place Shaping) and DM9 (High Quality Design) of the adopted Local Plan. The main reason was because PINS noted that Prior Approval was given in February 2021 for the construction of an additional storey comprising of 4 x 2-bedroom flats on the site (EPF/2967/20). As there was extant planning permission on this site and that the development proposal (EPF/2701/19) would have a very similar effect on the character and appearance of the area in terms of its height, form and architecture and would span much of the same section of roof, PINS had attached considerable weight on the fallback position and deemed the development acceptable.

Objections have been received raising concerns that the development would not be in keeping with the character and appearance of the site resulting a bulky, top-heavy development. The development would involve increasing the height of the additional storey by 900mm from 2.7 metres to 3.6 metres when measured externally. Whilst the roofline of the development remains staggered and the step back as a result of the balconies, nevertheless the development would appear awkward and incongruous when viewed in the public domain.

It is noted that the development proposal would also include some changes to the height of the balcony railings from 1.1 metre in height to 1.6 metres in height. As insufficient details were submitted regarding the design of the railings in this current application, Condition 6 of APP/J1535/W/22/3293716 imposed by PINS will be carried forward to this planning application should it be approved.

Overall, it is considered that the increased height of the development proposal would be visually harmful when viewed in the streetscene and at a distance. Therefore, it is considered that on balance, the development proposal would not accord with Policy with Policies DM9 and SP1 of the adopted Local Plan and the NPPF (2024).

Residential Amenity

Policy DM9 of the Council's adopted Local Plan states that all new development must not harm to the amenity of nearby residents by way of loss of light, outlook or privacy. As discussed above the development would not involve significant extensions to the existing building.

Objections have been received raising concerns that the balconies would result in overlooking and loss of privacy. However, it is important to note that the balconies were shown on the approved plans and are no bigger than the ones allowed by PINS. The only changes are the height and design of the railings which will be conditioned should this application be approved.

With regard to loss of light to existing occupiers at Dolphin Court and Dickens Rise, considerations must be given to the distance between the application site and the adjacent said buildings. No. 13-22 Brook Parade and Dolphin Court are separated by Brook Parade and High Road and the distance between the two buildings when measured at the closest points is approximately 28 metres.

No. 13-22 Brook Parade and Dickens Rise are separated by Brook Mews and the distance between the development proposal and the existing dwellings fronting onto Dickens Rise is approximately 30 metres when measured from the rear wall of Brook Parade to the rear boundaries of residential properties at Dickens Rise and 50 metres when measured back-to-back (rear wall to rear wall).

It is important to note that the position of the window openings on the submitted drawings remain the same as when the development was allowed on appeal by PINS. Therefore, the development proposed as it stands would not increase in overlooking or result in loss of privacy to existing occupiers at Dolphin Court and Dickens Rise.

In terms of residential amenity impact, this has been summarised by PINS in Paragraph 37 of the appeal decision where it stated that the neighbouring amenity, the position of the units at fourth-storey level together with the distances and angles to the main habitable windows and outdoor spaces serving neighbouring properties would be sufficient to retain suitable levels of privacy, outlook and light for neighbouring occupiers.

Overall, it is considered that the development proposal would not result in harm to the amenity of nearby residents and is in accordance with Policy DM9 of the adopted Local Plan.

Highways Impact

Concerns have been raised by local residents regarding parking provisions for this development proposal. In the appeal decision, the Planning Inspectorate has taken this into consideration and has discussed in depth the current parking situation, submitted parking surveys, potential yellow lines, public transport services, Residential Travel Pack etc. It was concluded that *“the development would have an acceptable effect on parking, public transport and service provision. In these regards the development would generally comply with the parking, transport and infrastructure requirements and support for reduced parking in sustainable locations of Policies SP2 (Place Shaping), T1 (Sustainable Transport Choices) and P7 (Chigwell) of the LP. For the same reasons the proposal would accord with the objectives in the Framework to ensure that development does not have an unacceptable impact on highway safety and promotes sustainable transport.”*

As the number of units remains the same as previously allowed on appeal, it would be unreasonable for the Council to warrant refusal of this application.

Essex County Council Highways have also commented on the application and raises no objection. Overall, it is considered that the development would not lead to circumstances that would be prejudicial to highway safety.

Epping Forest Special Area of Conservation (the “EFSAC”)

A large part of the Epping Forest contains a Special Area of Conservation (EFSAC) which has been identified primarily for its value in respect of beech trees and wet and dry heaths and for its population of stag beetle. As an internationally important site it is afforded the highest level of protection due to its habitats and species that are vulnerable or rare within an international context.

The Council, as a competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations), and Policies DM2 & DM22 of the Epping Forest District Local Plan (2023) has a duty to ensure that plans and projects for whose consent it is responsible will not have an adverse effect on the integrity of these designated sites either alone or in-combination with other plans and projects within the adopted Local Plan.

The Council has identified two main issues (known as ‘Pathways of Impact’) that are currently adversely affecting the health of the Epping Forest.

The first is recreational pressure. Surveys have demonstrated that most visitors live within 6.2km (Zone of Influence) of the Epping Forest. As new residential development within 6.2km is likely to result in more people visiting the Epping Forest on a regular basis this will add to that recreational pressure.

The second issue is atmospheric pollution which is caused primarily by vehicles travelling on roads in close proximity to the Forest emitting pollutants (Nitrogen Dioxide and Ammonia). Development proposals (regardless of their type, size, and location within the District) which would result in even an increase in just one additional vehicle has the potential to contribute to increases in atmospheric pollution within the Epping Forest.

Stage 1: Screening Assessment

This application has been screened in relation to the recreational pressures and atmospheric Pathways of Impact and concludes as follows:

- 1) The site lies within the 0km-3km Zone of Influence as identified in the Epping Forest Strategic Access Management and Monitoring (SAMM) Strategy. Consequently, the development would result in a likely significant effect on the integrity of the EFSAC as a result of recreational pressures.
- 2) The development has the potential to result in a net increase in traffic using roads through the EFSAC.

Consequently, the application proposal would result in a likely significant effect on the integrity of the EFSAC in relation to recreational pressures and atmospheric pollution Pathways of Impact.

Having undertaken this first stage screening assessment and reached this conclusion there is a requirement to undertake an 'Appropriate Assessment' of the application proposal in relation to recreational pressures and atmospheric pollution.

Stage 2: 'Appropriate Assessment'

The application proposal has the potential to increase recreational pressures on the EFSAC. However, the Council, through the development of the SAMM strategy and the Epping Forest District Green Infrastructure Strategy has provided a strategic, district wide approach to mitigating recreational pressures on the EFSAC through the securing of financial contributions for access management schemes and monitoring proposals.

The application proposal has the potential to result in a net increase in traffic using roads through the EFSAC. However, the Council, through the development of the Air Pollution Mitigation Strategy (APMS), has provided a strategic, district wide approach to mitigating air quality impacts on the EFSAC through the imposition of planning conditions and securing of financial contributions for the implementation of strategic mitigation measures and monitoring activities. Consequently, this application can be assessed within the context of the APMS.

It is evident that the development would result in an increase in trip generation that would have an impact upon the SAC and that a financial contribution in accordance with the APMS should be secured.

Paragraph 16 of the appeal decision APP/J1535/W/22/3293716, it is noted that a unilateral undertaking (UU) dated 5 July 2023 was completed. It was considered that the UU and the detailed conditions were sufficient to mitigate the effects of the development proposal and would not have a significant adverse effect on the integrity of the Epping Forest SAC.

Accordingly, the proposal complies with the requirements of Policies P7 (Chigwell), DM2 (Epping Forest SAC and the Lee Valley SPA) and DM22 (Air Quality) of the LP and the Habitats Regulations the Habitats Regulations and the NPPF (2024).

Other Considerations

Objections have been received from the local residents as Condition 8 of APP/J1535/W/22/3293716 in relation to the Construction Method Statement (CMS) which has not been discharged. The Council's Enforcement Team is aware of this breach and has been working with the Applicant for this matter to be resolved. As this condition has not been discharged, it is considered that should this application be approved, it is recommended that this condition is carried forward and re-imposed on the current application. This is to ensure that the development works on this site would not have an adverse impact on the existing occupiers of the site (commercial units and residents) and the general public and that considerations have been given to parking arrangements, deliveries, storage of materials, waste, dust, dirt etc. during the construction period.

Conclusion

Having considered the design of development, it is considered that the proposal would be significantly harmful by reason of its increased height, scale, bulk, mass and design. The proposal would fail to accord with Policy DM9 of the adopted Local Plan and the NPPF (2024) and is therefore recommended for a refusal.