



challenges the design presents and the potential for it to set a precedent for other infill sites.

## 2.0 POLICY CONTEXT

2.1 Relevant sections of national policy in the NPPF -

Section 2: Achieving Sustainable Development.

Section 5: Delivering a sufficient supply of homes

Section 11: Making Effective Use of Land

Section 12: Achieving Well-designed Places

2.2 The Publication Draft Local Plan has been submitted for examination. Its policies are carry weight in accordance with NPPF paragraph 45. The relevant policies of the Publication Draft Local Plan (February 2018) are -

|      |  |
|------|--|
| CC2  | Sustainable design and construction of new development |
| D1   | Placemaking  |
| D11  | Extensions and Alterations to Existing Buildings       |
| ENV5 | Sustainable drainage                                   |
| T1   | Sustainable Access                                     |

## 3.0 CONSULTATIONS

### Public Protection

3.1 Advise that if the scheme involves any garden areas a site investigation would be required, to determine whether any site remediation would be required. An informative is requested regarding construction management and requirements relevant to the Control of Pollution Act.

### Highway Network Management

3.2 One of the previous applications for the site referenced 20/00899/FUL has since been through an appeals process. The appeal was dismissed. However the Inspector deemed that the Highway Authority's objection citing unacceptable impact on highway safety, was not significant enough to warrant a refusal under paragraph 109 of the National Planning Policy Framework.

3.3 As the inspector has concluded that the similar scheme to this application is acceptable in highway terms, and no changes nor new substantial evidence is

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available to contradict his recommendation; officers are unable to formulate a defensible objection to the development presented.

3.4 Nonetheless officers continue to have reservations and observations from a highways point of view as to the suitability of the proposed development when considering the amenity of existing residents / highway users of Howard Street and those occupying the recently approved development of 9 dwellings to the rear of 79 Fulford Road (Chelmsford Place).

## **4.0 REPRESENTATIONS**

4.1 Fourteen objections have been received. Grounds as follows –

- The permissions already obtained by the Applicant (for land at 79 Fulford Road, behind the application site) constitute substantial overdevelopment of the immediate area and squeezing another dwelling above land clearly never intended for such use would amount to yet another step too far.

### Highway safety

- Cars parked in Howard Street have been scraped by delivery vans and other vehicles. Traffic levels in the street have changed so much in the last 6 years. There is limited space for car parking and this will be exacerbated by adding one more dwelling. Two parking spaces have recently been lost to accommodate access via the application site.
- Loss of the use of the alleyway as a turning facility within the street.
- The safety review associated with the application underestimates the number of car trips that would occur as a consequence of the development of the application site and the site behind.
- If vehicles were to be egressing / accessing the site simultaneously, one would need to give way. This increases the risk of an accident. One objection advises the alley is already too narrow to allow vehicles to pass.
- The alleyway is currently used as a turning space which would be compromised.
- The waste collection arrangements in the safety report are incorrect (the waste vehicle does travel down Howard Street).
- Concern about emergency access via the site, although acknowledge that the fire service have no objection in this respect. Lack of access for delivery vehicles.

- Where will extra cars park? There are already insufficient parking spaces in Howard Street. Two spaces were recently lost to enable vehicular access through the alleyway (which leads to Chelmsford Mews to the rear).
- Access impeded during construction - Rights of Way over the site / the required access to the dwellings (by pedestrians and vehicles) to the rear of the site (Chelmsford Mews) / access to the rear of houses on this side of Howard Street.

## Design

- The scheme would out of keeping with the architecture of houses on the street.
- The development would infill an intentional gap in the street, the houses to each side have been designed to this effect. The gap provides visual relief within the street. The development would appear squeezed into the space.
- The street would lose daylight if the application site were infilled.
- Overshadowing to neighbouring gardens and overlooking.
- Concerns over noise due to the 1<sup>st</sup> floor living room and its proximity to neighbouring bedrooms.
- The houses 4 and 6 Howard street were bought by their owners as a semi detached and an end of terrace properties. This will change if permission is given to build over the lane. It will decrease the value of their houses and be a very rude invasion of their privacy in terms of the new build being able to see into their gardens at very close approximation
- The scheme being developed to the rear of the site had generated a significant amount of traffic in Howard Street and it is not being built to the approved plans.
- The scheme for the dwellings behind the application site is not being carried out in accordance with the approved plans.

## 5.0 APPRAISAL

### KEY ISSUES

- Principle of development
- Impact on visual amenity
- Impact on amenity and living conditions of adjacent occupiers
- Highways and Access
- Drainage
- Sustainable design and construction

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## Principle of the proposed development

5.1 The NPPF in section 2 states that to achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives. Sustainable development is to be pursued in a positive way, ... and ... at the heart of the Framework is a presumption in favour of sustainable development. The presumption in favour is applicable to this application.

5.2 Section 11 of the NPPF relates to making effective use of land. Paragraph 117 states planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

5.3 In applying NPPF policy, the development proposed is appropriate in principle. As required under NPPF paragraph 11 the application should be approved unless “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”.

## Impact on visual amenity

5.4 NPPF section 12 sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 127 states developments should achieve the criteria listed below. The requirements of Draft Local Plan policies D1 and D11 contain similar themes.

- a) will function well and add to the overall quality of the area;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, whilst not preventing or
- d) discouraging appropriate innovation or change;
- e) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- f) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development and support local facilities and transport networks;
- g) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience.

5.5 In assessment of the visual impact of the scheme the Inspector’s comments in dismissing the appeal against refusal of the previous scheme are material. The

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Inspectors view (at paragraph 12) is as follows - "In my view, the principle of the proposed development would add to, rather than detract from, the cohesion of buildings on this side of the street. In this regard, I accept the appellant's views that it is not uncommon for Victorian mews courtyards to be accessed through a covered archway". In respect of design, the Inspector only had issue with the following details

- The size, form and glazing style of the main windows proposed at first floor level would markedly and unacceptably contrast with those of the adjoining buildings and those on the opposite side of the street.
- The flat roof front dormer would appear as a modern box-style which would unacceptably contrast with the more elaborate Victorian dormers on the street.

5.6 The revised scheme addresses the issues raised by the Inspector. It contains timber framed windows on the front elevation that do respect the street in their materials and proportions. The front dormer is omitted, a roof-light at ridge level proposed. The roof-light would not add volume to the roof, and not compete for attention with the repetitive and distinctive dormers on houses within the terrace. A condition of approval can secure appropriate detail of these features.

5.7 The proposed dwelling would be sympathetic to local character; it would be subordinate in scale, setback from the main façade of the terrace and with a lower roof ridge level. Materials would be brickwork to match the side gables of the neighbouring houses and slate roof covering.

#### Impact on amenity and living conditions of adjacent occupiers

5.8 The first floor rear extension projects some 1.5m from the main rear elevation, in addition there is a projecting bay window at the centre of the proposed extension. A 45 degree line has been annotated on the proposed plans, this is widely used as a guide, as set out in The Building Research Establishment (BRE) guidelines "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice," to illustrate neighbouring windows would continue to receive acceptable levels of daylight and sunlight.

5.9 In terms of whether the proposed extension would be over-dominant, the most affected areas of neighbouring dwellings; the ground floor rear rooms and outside space immediately behind the house; these areas are already substantially enclosed, by existing rear outbuildings and boundary walls, the latter being some 1.8m high. The extension due to its scale would not unduly create a sense of enclosure or appear over-dominant over neighbours.

5.10 The proposed dwelling is within a terrace. Rear windows already overlook neighbouring property and the additional window would have no undue impact.

5.11 It is noted previous applications have not been refused on neighbouring amenity grounds and nor did the Inspector, when looking at a previous and similar scheme, raise any objection or issue in this respect.

### Highways and Access

5.12 The NPPF which states that in assessing applications for development, it should be ensured that:

- appropriate opportunities to promote sustainable transport modes can be, or have been taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.13 Publication Draft Local Plan policy T1 states development will be supported where it minimises the need to travel and provides safe, suitable and attractive access for all transport users to and within it, including those with impaired mobility, such that it maximises the use of more sustainable modes of transport. The text advises proposals are required to demonstrate - safe and appropriate access to the adjacent adopted highway; provide sufficient convenient, secure and covered cycle storage, ideally within the curtilage of new buildings; new roads or accesses through the development restrict access for, or otherwise discourage general motor traffic.

5.14 The previous scheme for the site, which was subject to an appeal, was refused on highway safety grounds. This was due to the lack of space within the site for two cars to pass, as a consequence of development. The Inspector reviewed the proposals in this respect and found no issue with the application. He considered the access arrangements to be safe and appropriate and concluded "I do not consider that the proposed development would have a detrimental impact on highway or pedestrian safety of an extent that would be so unacceptable to warrant the dismissal of this appeal on those grounds". In terms of emergency access, the Fire Service were consulted on the previous application. They have no objection to the scheme as the dwellings at the rear of 75 Fulford Road would be within accessible distance (i.e. less than 45m) from Howard Street.

5.15 The Appeal Decision relevant to highways issues read as -

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23. *Howard Street is relatively narrow with designated on-street parking bays provided almost continuously along the south-eastern side of the street and intermittently along the north western side. The usable width of the road only allows for the passage of one vehicle in areas where cars are parked on both sides. Any vehicles traversing the street have to wait in any gaps in the parking areas if an oncoming vehicle is encountered. Consequently, I observed at my site visit that these factors cause vehicle speeds on the street to be low.*

24. *I observed at my site visit, when vehicles were parked in the passageway between the flank walls of the adjacent properties, that the presence of the gable walls and the available width would make passing manoeuvres for two cars highly unlikely in the vicinity of the existing gable walls.*

25. *I do not consider that two vehicles could reasonably pass in the width available either with or without the proposed development. The consequence of this is that vehicles wishing to pass whilst accessing or egressing the development to the rear would need to wait in the passing places shown on the submitted plan or on Howard Street.*

29. *Given the relatively low frequency of motorised and non-motorised movements I consider that the potential for conflicts in such movements to be low. The proposed development would not materially change the visibility at the junction of Howard Street with the passageway. Although the frontages of the flanking properties have low level walls with relatively thin metal railings these provide an acceptable degree of pedestrian and vehicular intervisibility in the vicinity of the junction.*

30. *I accept that there may be occasions when a vehicle wishing to turn into the passageway off Howard Street may have to wait to enable a vehicle to egress from the development at the rear. In worst case situations, this may also entail a vehicle having to reverse slightly back into Howard Street. However, such scenario could occur now with the existing situation. The relatively low volume of traffic movements on Howard Street, the low vehicular speeds and the position of the designated parking bay outside Nos 2 and 4, are factors that lead me to conclude that the available space and highway conditions would enable any such vehicular conflict to be managed without unacceptably compromising highway safety.*

31. *There may also be occasions when motorised and non-motorised movement conflict may occur in the passageway itself. However, I consider that adequate space would be retained ... for users to observe the potential for any such conflict and take evasive action. Sufficient space would be retained at the rear of the stairway at ground floor level also for any necessary evasive action to be taken, particularly as vehicle*



*speeds would likely be low due to the constrained width of the available highway on Howard Street and the narrow nature of the passageway.*

*32. Taking all of the above factors into account, I do not consider that the proposed development would have a detrimental impact on highway or pedestrian safety of an extent that would be so unacceptable to warrant the dismissal of this appeal on those grounds. Consequently, there would be no conflict with the provisions of paragraph 109 of the Framework or Policies D1 or T1 of the emerging Local Plan. These policies, amongst other things, require development to provide safe and appropriate access to the adjacent adopted highway and create safe and secure layouts for motorised vehicles, cyclists and pedestrians that minimise conflict.*

5.16 Covered and secure cycle parking is shown within the building proposed at ground floor level.

### Drainage

5.17 Publication Draft Local Plan policy ENV2 states that for all development on brownfield sites, surface water flow shall be restricted to 70% of the existing runoff rate, unless it can be demonstrated that it is not reasonably practicable to achieve this reduction in runoff. Because of the amount of development proposed at ground floor level (only the cycle store and staircase to the upper floors) a condition restricting surface water run-off would not be reasonable in this case.

### Sustainable design and construction

5.18 A condition can be imposed to secure compliance with Publication Draft Local Plan policy CC2 which requires all new residential buildings should achieve at least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations 2013); and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

## **6.0 CONCLUSION**

6.1 In applying NPPF policy there is a presumption in favour of the proposed development. A very similar scheme has been considered at appeal by a Planning Inspector. The Inspector determined there were no highway or safety related issues with the scheme. In principle the Inspector was supportive of the scheme. He had issue with architectural detail, which has been addressed in this amended scheme. There would be no unacceptable residential amenity issues. The scheme is

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recommended for approval, because it is NPPF compliant; there are no adverse impacts, which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

## **7.0 RECOMMENDATION:** Approve

- 1 TIME2 Development start within three years
- 2 PLANS1 Approved plans - YO202103 P - drawing numbers 3, 4, 5, 6
- 3 Materials

The external materials to be used shall be as annotated on the approved plans.

Manufacturer's details of the conservation type rooflight shall be approved in writing by the Local Planning Authority prior to the commencement of building works and development shall be implemented, and thereafter retained, in accordance with the approved details.

A sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

- 4 Large scale detail

The windows on the front elevation shall be set within their reveals, to match the format of neighbouring timber sash windows within the terrace. The profiles of the timber frames shall also be of matching style and proportions.

Reason: In the interests good design and to respect local character, in accordance with NPPF paragraph 127.

- 5 Cycle storage

The cycle storage shall be provided in accordance with the approved plans prior to first occupation of the development hereby approved and retained for cycle storage

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at all times.

Reason: to encourage sustainable means of travel in accordance with section 9 of the NPPF.

6 The passage (coloured green on the proposed plan YO202103 P3) shall be provided in accordance with the approved plan prior to first occupation of the development hereby permitted. It shall be kept free from obstruction at all times and shall not be used for vehicle parking.

Reason: In order to retain a reasonable and safe access to the host building and surrounding development in accordance with NPPF paragraphs 110 and 126.

## 7 Sustainable design and construction

The development hereby approved shall be constructed to achieve the sustainable design and construction measures below. Evidence of compliance shall be approved in writing by the Local Planning Authority prior to first occupation.

a) at least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations 2013).

b) a maximum water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Reason: In accordance with the environmental objectives of the NPPF (as set out in paragraph 8) and in accordance with policy CC2 of the Publication Draft Local Plan.

## 8 Hours of Construction

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

#### 1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38)

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in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: the use of planning conditions.

## 2. INFORMATIVE:

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

## 3 THE PARTY WALL ETC ACT 1996

The proposed development may involve works that are covered by the Party Wall etc Act 1996. An explanatory booklet about the Act is available at:

<https://www.gov.uk/party-wall-etc-act-1996-guidance>

Furthermore the grant of planning permission does not override the need to comply

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with any other statutory provisions (for example the Building Regulations) neither does it override other private property rights (for example building on, under or over, or accessing land which is not within your ownership).

**Contact details:**

**Case Officer:** Jonathan Kenyon

**Tel No:** 01904 551323