

Item No: 5

Reference: B/08/00145/FUL

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Parish: SUDBURY

Location: Newton House, Newton Road, Sudbury, CO10 2RS

Proposal: Erection of two-storey block of 12 No. flats (existing dwelling to be demolished). Alteration to existing vehicular access.

Applicant: Hamax Development Ltd

Case Officer: Fiona Bradley

Date for Determination: 23/06/2008

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### THE SITE

1. The site is located on Newton Road and is within the Sudbury built up area. The plot currently comprises a large Victorian house located to the centre of the plot with gardens to all sides. There are a number of outbuildings on the site to the rear of the existing dwelling. The plot is triangular in shape with the current access being from the south west corner. A drive way links the access to the house with lawn either side.
2. The site slopes up from Newton Road. Three TPO protected trees are within the site, all to the south east of the existing house. The south eastern boundary is densely planted whereas the western boundary comprises a 2m high wall separating the site from the adjacent byway. To the north east is a subdivided plot with a flatted development being erected which also fronts Newton Road. To the immediate north is the Chilton Industrial Estate.

### THE PROPOSAL

3. The proposal is for the demolition of the existing house and outbuildings and the erection of a two storey block of 12 No. two bedroom flats. The proposed building would be placed in the same location as the existing house however the footprint of the building would be significantly larger with the built form projecting closer to all boundaries. A bin and cycle store would be located to the northern boundary.
4. A total of 15 resident parking spaces with two visitor spaces are proposed. All parking spaces are located to the front (south west) of the proposed building with access being gated (existing gates retained).
5. An amenity area of 450sqm would be provided to the south of the proposed building adjacent to Newton Road.

### RELEVANT HISTORY

6. There is no recent planning history relevant to this case.

### NATIONAL GUIDANCE

**PPS1** - Delivering Sustainable Development

**PPS3** - Housing

**PPS9** - Nature Conservation

**PPG24** - Noise

**PPG13** - Transport

## **PLANNING POLICIES**

The following Development Plan policies are applicable to the proposal:

- EN03** - Protected Species
- EN09** - Conservation of Energy/Sustainable Construction
- EN13** - Water Conservation
- EN19** - Contamination
- EN21** - Waste Management
- EN24** - Noise
- HS01** - Housing in Towns/Urban Areas
- HS27** - Housing Density
- HS30** - Design of new Housing
- HS32** - Open Space
- CN01** - New Development

**This report only includes policy references. For further details please see Page 4.**

## **OBSERVATIONS**

7. TC – Object stating that the proposal is over development, concerned by the impact on TPO's, wildlife and the highway junction.
8. Great Cornard Parish Council (adjoining parish) supports the application.
9. LHA – No objections raised, the permission should however be subject to conditions
10. EA – No objection to the proposal however a condition should be added regarding drainage, particularly the effectiveness of soakaways. A condition should also be added regarding sustainable construction and design.
11. NE – Object as the application contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on legally protected species
12. SWT – The survey submitted was undertaken at the wrong time of year. It identified that there is potentially a habitat for bats
13. SCC, Rights of Way Officer – No objection, any works to the byway would require county approval.
14. AW – Anglian Water has assets close to or crossing the site, the layout should take this into consideration. If the assets need to be diverted an application under Section 185 of the water Industry Act 1991 should be made.

## **REPRESENTATIONS**

15. Nine letters of representation objecting to the scheme have been received and the comments are summarised as follows:
- The application lacks an Environmental assessment and ecological study.
  - The proposed building is too large and too many flats are proposed.
  - The existing building has architectural and historic merit.
  - There will be pressure on sewage infrastructure and drainage.
  - Concerns regarding the impact during construction – particularly the impact on the TPO protected trees.
  - Additional traffic with insufficient parking.
  - The additional traffic and parking could make crossing the road dangerous.
  - Over looking from the flats.
  - Noise impact and general invasion of privacy.
  - The existing building should be converted.
  - Impact on the character of the area as the site is prominent and the proposal is of insufficient quality and overly large.
  - Insufficient space for servicing vehicles - The bin store is inappropriately located, the bin lorries will not be able to access it and there is insufficient space for turning within the site.
  - The adjoining lane (RUPP No 3) is privately maintained, the bin lorries will add to the wear which could potentially result in a danger to pedestrians
16. One letter of representation has been received raising no objections to the proposal.

## **PLANNING CONSIDERATIONS**

### **Principle of development**

17. The proposal provides for the demolition of an unlisted building outside of a conservation area in the Sudbury built up area and is for the redevelopment of previously developed land. Therefore the proposal is in accordance with Policy HS01 and PPS3 as the principle of the development is acceptable subject to compliance with relevant planning policies.

### **Design and impact on character**

18. Policy HS30 states that all new development shall be of a high standard of layout and design; this is reiterated in Policy CN01 which requires all new development to be of an appropriate scale, form, design and finish. PPS3 in Para 10 states that planning authorities should deliver well designed high quality housing, this is echoed in PPS1 which places design at the centre of the planning system (Para 35) stating that development which fails to improve the quality and character of the area should not be supported.
19. The orientation of the proposed building follows that of the existing. The building line and form of the street is loose therefore the orientation, which is not square onto the road, would not harm the character of the area. The proposal would also result in natural surveillance over the adjoining path.
20. However, the proposal is for a large single building of a considerable footprint when compared to the existing house. Although it hints at a period style in the front elevation, the form and aesthetic design lacks continuity as the symmetry is lost on the side and rear elevations. Furthermore the windows are too basic; a sash or mullion and transom style would be more in keeping with the period concept.

21. The most significant concern with the design of the scheme is the scale and massing of the proposed building. As mentioned the building is significantly larger than the existing. It would dominate the surrounding area due to the massing proposed; it would also dominate the plot being disproportionately large. A key feature of the existing site is that the house is subservient to the plot providing a break in the street scape. This has facilitated a number of trees to become established, included the three protected trees. This enhances the street scene. The overly large building, and associated hard standing (the car parking area), would alter this relationship where the built form dominates the plot. This over development is harmful to the character of the site and immediate area. The car parking to the front is also considered to be harmful to the street scene.
22. The impact of the building is increased due to the proposed orientation, with the side elevations being visible from the public realm (particularly the adjacent path) and the slope away from Newton Road, the prominence of the proposal would be considerable.
23. The scheme, due to its bulk, layout and massing, is therefore not considered to be of sufficient quality, particularly when compared to the existing house and layout. The scale of the development is unacceptable as is the amount of hard landscaping. The scheme therefore fails to adhere to Policies HS30 and CN01.
24. In terms of the impact on the character of the area, the density of the development is considered to be too high. The site is not located in the town centre; therefore a high density cannot be justified. The proposal is for 60 dwellings per hectare (dph). As discussed above this has resulted in a large building which harms amenity. Due to the location and site constraints, a density more towards the national indicative minimum of 30dph would be more acceptable.

### **Impact on amenity**

25. Policy HS01 states that housing development will be granted as long as it does not have a material adverse impact on neighbouring residential amenity. Amenity in this instance normally refers to loss of light, over bearing or over looking.
26. To the north of the site there are industrial units and the road is to the south. However to the north east there is a two storey block of flats currently under construction and a property known as Chilton Mount. The rear elevation of the proposed flats would be closer to the boundary with these properties. The separation distance is currently 16m but would be reduced to 6m with Chilton Mount and 9m with the approved flats. The impact on neighbouring amenity is therefore increasing. It is also necessary to take into consideration that fact that the number of people living at the site will increase as will the number of windows. However the floor plans indicate that flat 12 has one window which is an ensuite (a condition could be added obscuring the glass) the other serves a kitchen/living room. This second window is a secondary window with the primary one facing south across the communal open space. The windows in flat 11 all serve habitable rooms but are further back from the boundary with an intervening tree screen indicated as being retained on the plans. The impact in terms of over looking is not therefore considered unreasonable. There will be no loss of light or over bearing caused by the flats due to the relationship with neighbouring buildings.

### **Trees**

27. There are three TPO protected trees on the site. The proposed site plan shows the building in close proximity to these trees and in part within their canopy. The existing house gives a clear separation between these trees and the building. The proposal could result in a direct conflict between the trees and building which could result in the tree having to be pruned. It could also impact on the roots, damaging and/or compacting them, this could place the trees at risk of death.

A full arboricultural assessment to BS 5837 should have been undertaken prior to submission as this would outline where the building could be accommodated within the site and its size. The fact that the trees are TPO protected by definition means that they add to the character of the area, by damaging or ultimately removing them, the character of the area would be harmed.

## Highways

28. Concerns have been raised regarding highway issues, in particular the parking ratio and access. The LHA has not raised any objections in relation to either of these issues. The flats proposed are all two bedroom, therefore 1 space per unit would adhere to the spirit of guidance in PPS1 and PPG13 which seek to deliver alternative transport options. The site is approximately 1200m from the town centre, cycle parking is provided, and therefore the proposal provides a viable alternative to owning a second car. The LHA has proposed a number of conditions which would overcome any potential harm to highway safety.

## Noise

29. Policy EN24 states that planning permission will be granted for noise sensitive development such as housing provided there is no significant adverse impact from existing noise generating development. PPG24 (Para 2) states that noise is a material consideration in the determination of an application. As the site is in close proximity to a busy road and an industrial estate a noise assessment should be submitted to ensure the development adheres to EN24. The applicant failed to submit an assessment with the application, therefore the impact of existing noise on the proposed flats is unknown. The applicant has failed to demonstrate that there will not be an unreasonable noise impact. The appropriate assessment would identify which noise exposure category (outlined in Annex 1 of PPG24) the development would fall within. The applicant did submit a noise assessment for the neighbouring flatted development (which is currently under construction).
30. It is unclear whether there are any differences between the sites, and furthermore what mitigations measures are needed. For example an acoustic fence between the flats and walls may not be acceptable in terms of the street scene. The noise impact and mitigation (if appropriate) needs to be identified prior to determination as the potential impact of noise is material to this application.

## Drainage

31. The applicant is proposing the use of the existing system/soakaways. Concern has been expressed by objectors that the drainage infrastructure could not cope with the additional use. The Environment Agency has indicated that a percolation test (a test to determine the absorption rate of soil) should be undertaken to ensure soakaways will work adequately in adverse conditions. This could be conditioned as part of a drainage scheme to be submitted and approved prior to commencement.
32. Similarly, if approved, a condition could be added for details of all hard surfaces, so that porous materials can be required to reduce surface run off.

## Open space

33. Policy HS32 requires that developments which will provide 1 dwelling or more should either provide a financial contribution towards the provision or upgrade of open space nearby (via a 106 Legal Agreement) or provide a public open space equal to 10% of the gross site area. The applicant is proposing 450sqm of open space but this would be private space for the occupants of the flats. Therefore a contribution is required. The applicants have not submitted either a

heads of terms or draft legal agreement. In the absence of this the applicants have failed to comply with Policy HS32.

### **Biodiversity and ecology**

34. PPS9 and Circular 06/2005 are clear that appropriate surveys should be undertaken prior to determination as the presence, or not, of protected species or important habitat is a material consideration. The applicants submitted a survey which was undertaken in February 2008. The survey found no evidence of a number of protected species such as Great Crested Newts, however there was evidence of bats. Two issues arise out of this survey
- A full survey of bats needs to be undertaken prior to determination, this cannot be conditioned as the presence of bats will significantly effect the entire development proposed.
  - The survey submitted was undertaken at the wrong time of year. February surveys are not robust as many of the protected species would be dormant and therefore not evident. SWT have indicated that there are records of slow worms and common lizards, neighbours have also stated that lizards and bats are evident.
35. In the absence of robust survey information the application is unacceptable. A condition is not suitable, as the presence of protected species could alter the principle and design of the scheme and both NE and SWT have objected to the application for these reasons.

### **Servicing**

36. Policy EN21 requires that there should be the provision of adequate and accessible storage and recycling facilities in all appropriate developments to enable easy collection and disposal of waste. The bin store would be located on the north section of the site. It could only be accessed via the restricted byway (No. 3). Neighbours have indicated that refuse collectors do not collect from too far up this path. The ROW officer has also indicated that the applicant will require a private right to take motorised vehicles over the public right of way (it is an offence under the Road Traffic Act 1988). Although it is not the role of the planning system to duplicate other legislation, it is difficult to see how the applicant will adhere to Policy EN21 without such a private right. No evidence has been provided that refuse can be collected from the area as indicated on the plan.

### **REASONS FOR REFUSAL**

37. The proposal by virtue of its scale, bulk and massing, impact on protected trees, density and aesthetic design, along with extensive hard landscaping, would result in an over development of the plot, harmful to the character and visual amenity of the area and street scene. This is contrary to Policies HS30 and CN01 of the Babergh District Local Plan and guidance in PPS1.
38. In the absence of a noise impact assessment, the applicant has failed to demonstrate that there is no significant adverse impact from existing noise generating development. This is contrary to Policy EN24 of the Babergh District Local Plan and guidance in Planning Policy Guidance Note 24.
39. In the absence of a draft legal agreement or sufficiently sized public open space on site, the applicant has failed to demonstrate that open space provision, in line with that set out in Policy HS32 of the Babergh District Local Plan, will be achieved.

40. In the absence of a robust ecological scoping survey, the applicant has failed to demonstrate that the development will not have an unacceptable impact on protected species or habitats. This is contrary to Policy EN03 of the Babergh Local Plan and Planning Policy Statement 9 and Circular 06/2005.
41. The applicant has failed to demonstrate that the refuse can be easily collected from the site for disposal. This is contrary to Policy EN21 of the Babergh District Local Plan.