

Appeal to Planning Inspectorate for non-determination of householder planning application at:

5 Staples Road, Loughton, IG10 1HP

LPA application number: EPF/2486/19

## Grounds of Appeal Statement, June 2020

Prepared by MWAarchitects (agent) on behalf of Jake and Amanda Marshall (appellant)

The reason for appealing this application is that the local planning authority has failed to make a decision within the statutory decision period (eight weeks).

### Key dates

1. 16/10/19 Application submitted.
2. 23/10/19 Date of letter declaring application invalid due to need for a basement impact assessment (BIA).
3. 12/11/19 Validation letter received. LPA agreed no BIA was necessary and no further documents were submitted by the agent.
  1. Validation letter gave application 'date received' as **01/11/19**
  2. Validation letter gave application 'decision date' as **27/12/19**
4. 19/11/19 Case officer visits site.
5. 27/11/19 Objection received from Loughton Town Council Planning & Licensing Committee, triggering requirement to be referred to Epping Forest Planning Sub Committee South.
6. 20/12/19 Feedback from case officer and conservation officer including full list of objections: Parish Council, Loughton Residents' Association, 7 Staples Road (neighbour and councillor sitting on Planning Sub Committee South). Requested response before 13 January in order for planning application to go to committee on 29 January 2020.
7. 12/01/20 Agent comments submitted by letter.
8. 28/01/20 Agenda published for 29/01/20 committee meeting: 5 Staples Road not included.
9. 18/02/20 Agenda published for next meeting on 26/02/20: 5 Staples Road not included.
10. XX/03/20 Agenda published for next meeting on 25/03/20: 5 Staples Road included.
11. 24/03/20 Committee meeting scheduled for 25/03/20 cancelled due to Covid-19. Agenda postponed.
12. 03/06/20 Video conference planning committee held. Committee requests site visit. Discussion and decision on 5 Staples Road postponed.

The application remains undecided **24** weeks after the proposed decision date of 27/12/19.

### Covid-19

Of course, we understand the difficulties that the pandemic has caused for everyone and it is very unfortunate that the Council stopped committee meetings the day before our application was to be discussed on 25 March. It was, however, already 13 weeks late by that date.

### Site visits

It would appear that, despite receiving agenda documentation two weeks in advance of its monthly meetings, the planning committee waits until the meeting date to decide if a site visit is necessary, thereby postponing discussion of a case until at least the following meeting. In the case of 5 Staples Road, the committee members have had the relevant documents since early March but still did not raise the requirement for a site visit until the meeting on 3 June.

There are no guidelines to determine when a site visit is necessary or whether, perhaps, the case officer's records would suffice. The rationale for a site visit seems to be that the neighbouring houses (3 and 7 Staples Road) are locally listed even though the proposal for 5 Staples Road is

not visible from anywhere in the public realm. It is not clear why a site visit of c.20 councillors to a private garden is necessary to assess the impact of the proposal on the character of the conservation area. <sup>1</sup> The logistical difficulties involved in coordinating such a visit mean that it is unlikely to be possible in the current circumstances and a decision could well be postponed until the July or August meeting, if not beyond.

### **Probity concerns**

There were three objections to the application from the following:

- Loughton Town Council Planning & Licensing Committee / Parish Council
- Loughton Residents' Association (LRA)
- Occupants of 7 Staples Road (Mr and Mrs Pond, both district and town councillors, members of Planning Sub Committee South and the LRA, of which Mrs Pond is leader)

At the (virtual) meeting of Planning Sub Committee South on 2 June, 50% of the councillors present were members of the LRA.

The first objection to the application was raised by the Parish Council Planning and Licensing Committee. There were six councillors at that committee meeting on 25 November 2019, all of whom are LRA town councillors. One member<sup>2</sup> is a neighbour whose property adjoins the garden of 5 Staples Road, an interest the councillor did not explicitly declare in the meeting <sup>3</sup>. The result of this objection is automatic referral to the planning committee.

The third objection comes from the immediate neighbours at 7 Staples Road. While committee rules prevent Mr and Mrs Pond from voting on this application, concerns remain about the neutrality of the other LRA members. The LRA members on the sub-committee have an interest that is so significant that it is likely to affect their judgement, given that not only has their party objected, but so have the party members who make up the Parish Council Planning and Licensing Committee, as well as the leader of the LRA, Mrs Pond.

While there is no suggestion that there has been any deliberate misconduct on the part of the local planning committee, we do feel that reasonable speed and deliverance of statutory decision making have not been adhered to. Therefore, this application is probably best determined by an impartial planning inspector to avoid any doubt and further unnecessary delay.

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<sup>1</sup> Link to committee meeting 03.06.20 - agenda item 8 has a discussion about site visits:  
[https://eppingforestdc.public-i.tv/core/portal/webcast\\_interactive/481586](https://eppingforestdc.public-i.tv/core/portal/webcast_interactive/481586)

<sup>2</sup> Cllr Tessa Cochrane - 16 Shaftesbury, Loughton, IG10 1HN

<sup>3</sup> Appendix 4 - Meeting minutes from PLANNING AND LICENSING COMMITTEE, 25/11/2019 at 7.45pm  
[http://www.loughton-tc.gov.uk/\\_UserFiles/Files/\\_Minutes/83301-14\\_Planning\\_-\\_Minutes\\_-\\_25\\_Nov.pdf](http://www.loughton-tc.gov.uk/_UserFiles/Files/_Minutes/83301-14_Planning_-_Minutes_-_25_Nov.pdf)

### **Conservation officer and case officer support**

Since the case officer and conservation officer both support the application, this statement will focus simply on the objections raised from the local amenity groups and the immediate neighbour, rather than argue the case for the design.

Draft reports in appendix 5<sup>4</sup>.

### **Reasons for objection**

The reasons for the objections raised can be summarised as follows:

- Out of keeping with the style of the property and conservation area
- Flood risk
- 'Unsafe and unsound'

Both the agent<sup>5</sup> and the applicant<sup>6</sup> have made detailed representations addressing these points (see appendix), which can be summarised as follows:

- The conservation officer is in support of the application and acknowledges that the existing historic extensions do not complement the original house. The test is not whether the development is in keeping with the style of the conservation area but rather if it preserves or enhances the character of the conservation area which the officer agrees it does.
- Historic flooding on this site was caused by burst mains water pipes which a flood risk assessment would not take into consideration. The site is located on an incline with the large garden sloping away to the rear and the extension represents only a modest increase in footprint.
- The increase in property size is negligible despite the site area being substantial (over 1000 square metres) and the occupancy of this family dwelling will not be affected.

The objection that the development is not 'in keeping with style' does not provide legitimate grounds for refusal of the application since it must be demonstrated that the proposal harms the character of the conservation area. It is also relevant that the existing structures that our proposal seeks to replace are not in keeping with the style of the host or surrounding buildings. The improved design of these structures represents an enhancement of the local contribution to the character of the conservation area (refer to Planning, Design and Access Statement 7). When assessing the impact on the character of the conservation area, it is a material consideration that the proposal is not visible from any public space.

Unnecessary 'assessments' that simply serve to slow the planning process down should not be used where there is no evidence of the risk that the proposal may pose. This applies to the request for a flood risk assessment, where common sense should prevail. It

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<sup>4</sup> Appendix 5 - Area Planning Sub-Committee South, case resource pack.

Wednesday, 3rd June 2020 at 7:00pm Case officer and conservation officer reports prepared for planning committee meeting.

<sup>5</sup> letter to case officer from Matthew Wood Architects - 12.01.2020

<sup>6</sup> Written submission to be read out at committee meeting as attendance was not going to be possible

<sup>7</sup> Appendix 3 - Design and Access statement

also applies to the suggested planning condition that a basement impact assessment is required which seems wholly unnecessary for a ground-level extension.

To suggest a site area of 1,086 square metres (0.1 hectares) will become so overdeveloped as to be 'unsafe and unsound' demonstrates a detachment from any understanding of development control. The proposal is for a house of 263 square metres with an occupancy of two adults, three children and one dog. This objection can only be read as a desperate attempt to stop development since it has no basis in fact.

### **Recommended conditions**

The recommendations from the committee meeting resource pack<sup>8</sup> include a basement impact assessment to be carried out prior to commencement. Inclusion of this condition has not been agreed by the applicant. The development requires no excavation; there seems to be a fundamental misunderstanding of the scheme if it is considered that excavation requiring a BIA is necessary.

### **Conclusion**

The appellant has commissioned a high-quality piece of design to adapt their home which was supported by a well-prepared and well-documented application. The proposed modifications will ensure their family home provides for their contemporary needs while giving the property a sustainable future through improved layout and energy efficiency. Furthermore, the design respects the contribution that the original building makes to the character of the conservation area and to the surrounding dwellings.

The LPA is now more than 24 weeks late in reaching a decision, leaving the family in limbo. It is unacceptable that it has taken this long given that the scheme is uncontroversial and is not visible from the street. The appellant should not have been forced to make an appeal in order to force a decision when it could have been determined within the confines of the planning system.

The inspector should approve the application without condition 4 (BIA) as advised by the officers and send a clear message to Epping Forest District Council that it needs to take its responsibility for statutory decision making more seriously by delivering a sustainable development control system.

End of statement.

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<sup>8</sup> Appendix 5 - committee resource pack page 2 condition 4

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### List of Appendices

Appendix 1 - Original application form

Appendix 2 - Planning Drawings (existing and proposed)

Appendix 3 - Planning Statement and Design and Access Statement

Appendix 4 - Minutes from Loughton Town Council Planning and Licensing  
Committee meeting. 25/11/2019

Appendix 5 - Area Planning Sub-Committee South, case resource pack.  
Wednesday, 3rd June 2020 at 7:00pm Case officer report prepared  
for planning committee meeting.

Appendix 6 - Letter to case officer from Matthew Wood Architects - 12.01.2020

Appendix 7 - Written submission to be read out at committee meeting by Jake Marshall  
and Amanda Marshall (appellants)