
Appeal Decision

Site visit made on 23 May 2017

by R A Exton Dip URP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16th June 2017

Appeal Ref: APP/J1535/W/17/3169528

Beechlands, 42-44 Alderton Hill, Loughton, Essex IG10 3JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Essex County Care Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/1858/16, dated 20 May 2016, was refused by notice dated 15 August 2016.
 - The development proposed is erection of private dwelling house and garage for the proprietor of Beechlands and his family.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline form with all matters reserved. Plans have nevertheless been submitted showing the appearance of a house on the site. Whilst I shall treat these as being for illustrative purposes, the type of house shown has been referred to by the appellant in support of its case. I shall therefore take account of the plans accordingly.

Main Issues

3. The main issues are the effects of the proposal on the character and appearance of the surrounding area and the living conditions of neighbouring residents.

Reasons

Character and appearance

4. The appellant draws support for the principle of a dwelling on the site from previous appeal decisions. Notably, an appeal was allowed in 2007 (Ref: APP/J1535/A/06/2027158) when outline planning permission was granted for the erection of a private dwelling house on the same site. However, that planning permission was, I understand, not implemented and it has subsequently lapsed. The principle of residential development was again considered in another appeal decision (Ref: APP/J1535/A/09/2116960 decided in 2010). In that decision the Inspector noted that since the 2007 decision the former (PPS3) had been amended in January 2010 indicating that there should be no presumption that previously developed land was necessarily suitable for housing. He also noted that a ministerial statement of June 2010 removed
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private residential gardens from the definition of previously developed land (PDL) in PPS3 Annex B. As such there had been a fundamental policy shift in the way that PDL should be regarded. Although he went on to conclude that the site was PDL it was nevertheless surrounded on three sides by private residential gardens and it was correct to refer to it having a domestic garden setting. He also acknowledged that the link between sustainability and good design had been strengthened since the 2007 appeal decision. These factors were part of the reasons why the 2010 appeal was dismissed.

5. Although PPS3 no longer exists, the National Planning Policy Framework (the Framework) still excludes land in built up areas such as private residential gardens from the definition of PDL. Even if I were to take the view that the site is PDL because of its C2 use, it is still clearly part of the garden area associated with the residential home and surrounded by other gardens. In this regard, paragraph 53 of the Framework seeks to avoid inappropriate development of residential gardens, for example where development would cause harm to a local area regardless of whether they are PDL.
6. In view of the above, it seems to me that despite planning permission being granted for a dwelling in 2007 it does not follow that it should in principle be granted again. Furthermore, that permission has now lapsed and in all the circumstances I give it very limited weight.
7. Turning therefore to the merits of the current appeal, Alderton Hill is characterised by large, closely spaced detached dwellings set within substantial plots. There is a wide variety of styles and sizes of dwellings, but all are set back from the road behind garden or parking areas. There is also variation in the length of rear gardens of dwellings but a distinct lack of backland development within them.
8. I do not consider that the dwellings at No 50 Alderton Hill and No 12A Alderton Close referred to in the evidence are comparable to the appeal site. Whilst No 50 is set back further from the road than other dwellings on Alderton Hill it is not behind other development and so cannot be considered backland. No 12A is accessed off Alderton Close and so cannot be considered back land either.
9. The proposal would introduce a substantial dwelling into an approximately central position behind No 42-44 Alderton Hill within its rear garden. In the absence of any other dwellings set behind and accessed alongside existing frontage dwellings, this would be a significantly different form of development to that which exists in the surrounding area. It would contrast harshly with the established character of large dwellings set back from the road in substantial plots by introducing an uncharacteristic form of backland development. Although the proposal would not be visible from Alderton Hill or Sparelease Hill, the difference in form alone would conflict with and be harmful to the distinctive setting and character of the surrounding area.
10. I agree with the appellant that the principle of backland development is not contrary to planning policy per se. However, when such development results in a harmful effect on the character of an area this does render it inappropriate development on a residential garden which the Framework specifically seeks to avoid. I am aware of a third appeal decision (Ref: APP/J1535/A/08/2077391) which concerned an application seeking approval to the design and external appearance of a house pursuant to the outline permission granted following the

successful 2007 appeal. The appellant suggests that the design of the house illustrated in this appeal has sought to address the design concerns raised by the 2008 Inspector which led her to dismiss that appeal as well. However, I have only limited details of the previous reserved matters scheme and I do not have any plans of it. In any event that appeal was being considered in the light of the extant outline planning permission, which is not now the case, and I am required to consider the current scheme.

11. Having regard to the above, I find that the appeal proposal would harm the character and appearance of the area. Consequently, it conflicts with Policy DBE1 of the Epping Forest Local Plan 1998 and Policy CP2(iv) of the Epping Forest Local Plan Alterations 2006. Both these policies are consistent with the aims of the National Planning Policy Framework (the Framework) in seeking to ensure that developments respond to their local character.

Living conditions

12. The proposed dwelling is shown sited some 40 m from the rear elevation of Beechlands and as such would be set much further back than neighbouring dwellings on Alderton Hill. Separation distances of 11m, 13 m and 18m are shown from the two side and rear boundaries respectively. These boundaries are densely vegetated with a mix of mature trees and hedges. There would be limited visibility of the proposed dwelling over and through this vegetation to differing degrees at different times of the year. I consider that this and the separation distances to neighbouring gardens would avoid it being visually intrusive and having any adverse effect on occupiers. As such, based on the submitted plans, I find no conflict with Policy DBE2 which seeks to prevent new buildings which have a detrimental effect on existing neighbouring properties.

Other Matters

13. The appellant cites functional need, economic, practical and security reasons in support of the proposal. The details to support these reasons behind the scheme are limited. I can see no substantive case for why the proprietor needs a separate house to live in on the site for care reasons. I give limited weight to this background. I note that the Council is concerned that a planning permission here could create an undesirable precedent for other similar development that cumulatively could erode the character and appearance of the area. However, given that I have found the scheme to be unacceptable which is leading me to dismiss the appeal anyway, this is not a matter that I need to consider any further.

Conclusion

14. Whilst the site may be in a generally sustainable location and be of sufficient size to accommodate a dwelling without detriment to the living conditions of neighbouring residents these factors do not outweigh the harm to character and appearance of the area and consequent conflict with the development plan. Accordingly, I consider that the development cannot be viewed as sustainable development when taken as a whole. In light of this and taking all other matters raised into account I conclude that the appeal should be dismissed.

Richard Exton

INSPECTOR