
Appeal Decision

Site visit made on 12 June 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 20th June 2017

Appeal Ref: APP/J1535/W/17/3168072

Land rear of 71 and 71a Stonards Hill, Loughton IG10 3EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by GK2 against the decision of Epping Forest District Council.
 - The application Ref EPF/1694/16, dated 20 June 2016, was refused by notice dated 19 August 2016.
 - The development proposed is the erection of a single-storey 1 bedroom house with associated car parking and amenity.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the decision notice and appeal form as these documents refer to the site as *land rear of 71 and 71a Stonards Hill*, which is a more accurate description than that contained in the application form.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area including whether the proposed development would provide adequate living conditions for future occupants, with particular reference to the proximity of protected trees.

Reasons

The effect on character and appearance

4. The built form and layout of both Stonards Hill and Alderton Way is predominately characterised by two storey semi-detached houses arranged in discernible building lines with long rear gardens. As such, the area exhibits a coherent suburban character and layout. Although altered over time, the properties in the nearby streets have a harmonious scale and appearance due to the use of similar architectural treatments and repeated house types, which probably date from the mid twentieth century.
5. The appeal site encompasses a parcel of land located to the rear of Nos 71 and 71a Stonards Hill (Nos 71 and 71a) but with a frontage onto Alderton Way. It is understood the site once formed part of the rear gardens of Nos 71 and 71a

- but it is now subdivided from these properties by a close boarded fence and is in separate ownership.
6. The appeal scheme is for the erection of a detached single storey dwelling. It would have a diminutive scale and this would jar with the height and massing of the two storey semi-detached houses nearby. The dwelling would be sited in an unusually small plot and the development would have an untypical layout with the proposed garden located to the side of the house. The proposed dwelling would be hard up against the rear and northern boundaries of the appeal site and this would result in it appearing cramped. Consequently, there would be little about the appeal scheme that would respond to, or reflect, the existing character and appearance of the area. As a result, the proposal would be a stark anomaly that would be viewed as a discordant addition to the street scene. Thus, it would fail to respect the setting of the site and would harm the character and appearance of the area.
 7. The appellant suggests that the proposed dwelling would be of a similar scale and character to a pair of garages approved within the appeal site¹ and would integrate with the scale and form of adjoining domestic structures. Nevertheless, the appeal scheme would not look like a pair of garages. Instead, it would have the appearance of an incongruously small dwelling, which would have a different and more independent character to a subservient and functional pair of garages or nearby garden buildings. Consequently, the appeal scheme would not be justified by the approval of garages within the site or the presence of nearby structures.
 8. The proposed development would be subservient to the nearby houses due to the small scale proposed. In this instance such an approach would not be a benefit that would justify the appeal scheme. Instead, the discordantly small scale of the appeal scale would result in it appearing as a contrived attempt to fit a dwelling into the available space rather than a natural and harmonious infilling of the site.
 9. The site is overgrown and enclosed by close boarded fencing. The fencing along Alderton Way is in a poor state of repair. Nevertheless, there is nothing before me to suggest the lack of management currently evident at the appeal site could not be easily remedied without having to erect a dwelling. Thus, the current state of the appeal site does not justify the erection of a dwelling.
 10. The appellant suggests the implementation of the approved garages would result in a 'dead frontage' that could otherwise be improved by the appeal scheme. However, the street is well over looked by the properties on the eastern side of the road and therefore the creation of an active frontage on the western side of the road through the delivery of the appeal scheme would not be a determinative benefit in this instance.
 11. In a previous appeal² concerning the erection of a detached dwelling within the appeal site, the Inspector described it as a verdant space that adds to the character of the area. I share this conclusion of the previous Inspector and also find that the appeal site provides a welcome gap between buildings. This is due in part to the small spaces found between the nearby semis, which

¹ Application EPF/0181/15, which is understood to be extant

² APP/J1535/A/13/2205633

- provide a reasonably tight urban form, and because many of the front gardens have been paved over, which lessens opportunities for planted landscaping.
12. Two very large Leyland Cypress trees are located in the south western corner of the appeal site. These add to the incidental value of the site as a verdant gap in the street frontage. The trees are protected through a Tree Preservation Order (TPO) as recognition of their contribution to the amenity of the area.
 13. The proposed dwelling would be located along the northern boundary of the appeal site with the garden area occupying the southern section. The protected trees in the appeal site are very tall with a significant canopy spread. They would dominate the outlook from the proposed property, would be an oppressive feature for future occupants when in their garden and would disrupt sunlight penetration for notable periods of the day. Moreover, substantive evidence has not been provided that confirms the height and proximity of the trees to the proposed dwelling would not affect ambient daylight. There is also the distinct possibility that the trees could become a nuisance through, for example, deposits and branch shedding. This would harmfully affect the usability of the proposed garden even though it would be of a reasonable size.
 14. I therefore share the concerns of the Council that, the trees would limit the living conditions of future occupants of the appeal scheme. As such, the Council would come under sustained pressure to permit the felling of the trees or some form of undesirable management, including a significant reduction in the trees. Such a course of action would harm the character and appearance of the area and is best prevented by not permitting development that would lead to such a conflict. This is notwithstanding the generally positive comments of the Council's Arboricultural Officer because they do not appear to address the proposal's potential for post development pressures on the trees.
 15. The appellant suggests the above scenario would be unlikely to occur as an application to fell the trees has already been refused and the subsequent appeal dismissed³. The appellant opines that future occupants of the appeal scheme would be aware of this and would only occupy the dwelling if they are content to live with the trees. However, future occupants may not be fully informed on the impacts that may transpire from living in such close proximity to substantial trees. Additionally, there is no recognition in the Framework of the concept of 'buyer-beware'. Indeed the Framework is clear that the planning system should always seek to secure a good standard of amenity for all future residents of land and buildings. The appeal scheme would not achieve this.
 16. I therefore conclude that the appeal scheme would harm the character and appearance of the area. I also conclude that the proposal would provide inadequate living conditions for future occupants due to the compounded impacts that would arise from living in such close proximity to the protected trees. This would place the Council under sustained pressure for the trees to be removed. Such an outcome would result in further harm to the character and appearance of the area.
 17. The proposal would therefore be contrary to Policies CP2, CP7, DBE1, DBE8 and LL10 of the Epping Forest District Local Plan 1998 and its Alterations in 2006, which seek developments that retain trees, enhance the townscape, provide

³ APP/TPO/J1535/4918

adequate and useable amenity space and respect their setting in terms of scale, proportions, massing and height. These policies pre date the Framework but they are nevertheless consistent with it, particularly Paragraphs 17 and 58, and can therefore be afforded significant weight.

Other Matters

18. The proposal would provide an additional dwelling which would support housing supply and choice. However, this would be in a way that would harm the character and appearance of the area. As such, this is not a determinative benefit of the proposal.

Conclusion

19. I conclude that the appeal scheme would be contrary to the development plan when taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR