
Appeal Decision

Site visit made on 15 August 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 24 August 2017

Appeal Ref: APP/J1535/W/17/3172746

19 Kenilworth Gardens, Loughton, Essex IG10 3AG

- 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 Mr Robert Ceconi against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/2946/16, dated 25 October 2016, was refused by notice dated 16 January 2017.
 - The development proposed is a three bedroomed end of terrace house built on side garden of No 19 Kenilworth Gardens.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of the occupants of Nos 4 & 5 Catherine Close (Nos 4 & 5) with particular regard to outlook;
 - trees.

Reasons

Living conditions

3. The appeal property is a two storey semi-detached dwelling with a single storey garage to its side positioned at the end of Kenilworth Gardens. To the north east are modern detached dwellings on Catherine Close, where the main rear elevations and rear gardens of Nos 4 & 5 face the side elevation of the appeal dwelling.
4. The proposed dwelling would be built in the space between the side elevation of the appeal dwelling and the shared boundary with Nos 4 & 5. Even though it would have a lowered eaves height and the roof would slope away, Nos 4 & 5 have relatively shallow rear gardens and their main rear elevations would be a relatively short distance away from the proposed side elevation. Furthermore, No 4 Catherine Close has a conservatory and No 5 Catherine Close has a single storey rear extension which extend into their rear gardens towards the appeal site.

5. I acknowledge that the appeal property occupies a generous plot and the proposed dwelling would be in keeping with the character and appearance of the area. Furthermore, I note that the appeal scheme has sought to address a previous refusal of planning permission¹, was subject to extensive positive discussions with Officers and was refused by the Council's Planning Committee when Officer's recommended approval. I also note that planning permission was granted in 2000² for a two storey side extension of a similar scale and positioning to the appeal proposal.
6. However, as far as I am aware, the 2000 permission has not been implemented, there is nothing to indicate it would be should the appeal fail and is not before me. Furthermore, the Committee are entitled to reach their own view on the proposal and I have considered the appeal on its planning merits.
7. Whilst I acknowledge the comments with regard to inaccurate figures quoted in the relevant reports, the proposed dwelling would be set off the appeal site boundary and within a 25 degree line, it remains the case that the proposed dwelling would be built in a relatively narrow space between the appeal dwelling and Nos 4 & 5.
8. In my view, the proposed two storey dwelling of considerable depth and height in such close proximity to the main rear elevations, conservatory and single storey rear extension of Nos 4 & 5 would have an enclosing effect which would appear overly dominant and overbearing when viewed from within Nos 4 & 5 and from their rear gardens.
9. For these reasons, I find the proposed dwelling would harm the living conditions of the occupants of Nos 4 & 5 with particular regard to outlook. It would therefore be in conflict with saved Policy DBE9 of the Epping Forest District Local Plan (1998) (EFDLP) and the National Planning Policy Framework, which taken together, seek to ensure good design and that new development does not harm the amenities of the occupiers of neighbouring properties.

Trees

10. There are two oak trees positioned along the appeal site boundary which would be in close proximity to the proposed dwelling. However, the appellant has submitted an Arboricultural Impact Assessment (AIA) with the appeal which was not available to the Council when it determined the planning application.
11. Subsequently, the Council make clear in their statement that subject to the imposition of appropriate planning conditions which would ensure any harmful effects on trees are mitigated in accordance with the AIA, they are satisfied the proposal would not harm trees and no longer object to the proposal in this regard.
12. I find no reason to disagree and on this basis subject to the imposition of appropriate planning conditions in this regard the proposal would accord with saved Policy LL10 of the EFDLP which seeks to ensure trees are safeguarded against any harmful effects arising from new development.

¹ Council Reference EPF/1542/15

² Council Reference EPF/1272/00

Other Matters

13. In reaching these conclusions, I acknowledge that the proposal would provide a new dwelling in a sustainable location adding to the supply of housing in the area. I also note that there would be economic benefits associated with construction and the occupants might work locally and use local services and facilities to the wider economic benefit of the area. However, these matters or any others raised do not outweigh the harm I have identified to the living conditions of nearby residents. Consequently the proposal would not amount to sustainable development.

Conclusion

14. For the reasons set out above and with regard to all other matters raised, I conclude that the proposed development would not accord with the development plan and therefore the appeal should be dismissed.

L Fleming

INSPECTOR