



Appeal Decision

Site visit made on the 9 September 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2019

Appeal Ref: APP/J1535/W/19/3222929

Flat, The Firs, 191 High Road, Chigwell IG7 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Rahul Dhingra against the decision of Epping Forest District Council.
 - The application Ref: EPF/0999/18, dated 10 April 2018, was refused by notice dated 22 August 2018.
 - The development proposed is demolition of existing bungalow and erection of building to provide four flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the banner heading above is taken from the decision notice and appeal form, instead of that shown on the application form of 'demolition of existing residential dwelling to be replaced by dwelling containing 8 flats'. This is because, prior to determination of the application, the proposed scheme was amended from eight to four flats, following discussion between the Council and the appellant, and consultation on the amended scheme. Therefore, the description shown in the banner heading is more accurate. I will determine the appeal on this basis.
3. Although the emerging Epping Forest District Local Plan (LP2) is at an advanced stage, it is yet to be adopted and its policies may be subject to further change, which limits the weight to be attached to it. The saved policies of the Epping Forest District Local Plan (1998, as altered 2006) (LP1) therefore constitute the development plan for the purposes of the appeal. I will determine the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area, including whether it would preserve the setting of the Oak Cottage Grade II Listed building (LB), and its effect on a protected tree, and
 - b) the living conditions of neighbouring occupants of No.5 New Barns Way, with particular regard to odour.

Reasons

Character and appearance

5. The appeal site comprises a bungalow and its garden areas. It is set within a mainly residential area, a short distance away from the shops at the Brook Parade local centre and Chigwell tube station.
6. The residential area in the vicinity of the site along and on roads leading off the High Road, between the railway line and Forest Lane, is characterised by mainly two-storey dwellings of various architectural styles and ages.
7. The proposed building would have an approximately L-shaped footprint. The south-western side facade of the building would run closely parallel to a public footpath which adjoins the site. With a depth of around 16m, the majority of the proposed building would be three-storey, with a two storey-front facade, in response to ground sloping down in a broadly north-westerly direction. The ridge height of the rear of the building would be around 13m.
8. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) state that in considering whether to grant listed building consent and planning permission respectively, the decision maker 'shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. Paragraph 190 of the National Planning Policy Framework (the Framework) requires an assessment of the particular significance of any heritage asset affected by a proposal, including by development affecting its setting.
9. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Legal precedent has confirmed that considerable importance and weight should be given to this requirement.
10. The LB is a Grade II listed eighteenth century house, which was extended in the nineteenth century. It is timber framed with a mixture of stock brick facing roughcast rendering and weatherboarding, and a slate roof. The significance of the LB lies in its vernacular architectural style.
11. From the front view on the High Road, the height of the front facade of the proposed building would be similar to that of the LB. The set-back of the proposed building in relation to the front of the LB, combined with the mass of the LB, would obscure much of the proposed building from view. The latter's L-shaped footprint is such that its north-eastern gable end would reasonably echo the height and proportions of the LB. Moreover, tree cover in the grounds of the LB would screen some of the views of the proposal. The above factors, in combination, lead me to find that the proposal would not cause harm to the setting or significance of the LB.
12. Two of the proposed parking spaces would be within the canopy area and rootzone of a B category horse chestnut tree which is protected by Tree Preservation Order (TPO) No.5/96¹. Whilst this is not ideal in terms of tree growing conditions, I saw during my site visit that the area of the two proposed

¹ TPO Ref: T4, Tree Survey Ref:T1.

spaces is already paved and used for car parking. Careful tree protection methods during construction and landscaping could be secured by planning condition. As such, the proposal need not significantly increase the risk of harm to the protected tree, compared to the existing situation.

13. At the front, the proposed building would have a higher ridge height than the neighbouring Lanterns terraced row of houses. However, given the similar front ridge height of the neighbouring LB, the chimney height of the Lanterns and the relatively flat level of the immediate stretch of the High Road, I find that the front facade of the proposed building would fit acceptably into the streetscene.
14. However, the substantial expanse of largely blank south-western side elevation, in combination with the bulk and rear height of the proposed building, would result in it appearing to loom up excessively, viewed travelling up New Barns Way towards the public footpath, and from the rear gardens of Nos 1 to 4 The Lanterns. Furthermore, the south-western side facade of the building would appear discordantly bulky, viewed travelling in a north-easterly direction along the High Road. Given the proximity of around 3m between the side of No 4 The Lanterns and the proposed building, the bulk of the latter would also result in a visual 'pinch point', which would have an oppressive, cramping effect on the public footpath between the properties. The function of the footpath as a pedestrian link from residential areas on the north-western side of the High Road to the nearby tube station and shops would contribute to the proposal's prominence, and consequently its impact.
15. Given the above, the proposed building would have an excessively bulky appearance and over dominant presence. Accordingly, it would sit uncomfortably next to the terraced row of Nos 1 to 4 The Lanterns and would be discordant with the character of the area, from the view-points to the rear and south-west described above.
16. To conclude on this main issue, the proposal would preserve the setting of the LB, including the protected tree. As such, it would not conflict with the approach of the Framework in respect of the desirability of sustaining and enhancing the significance of heritage assets. However, for the reasons described above, the proposed development would significantly harm the character and appearance of the area. The absence of harm in relation to the LB and protected tree would not diminish the other identified harm in respect of character and appearance. As such, the proposal would conflict with Policies CP2 and DBE1 of the LP, which together seek to ensure that development is sympathetic to its setting and local character.
17. Policy HC4 of the LP relates to protected lanes, greens and commons and, based on the evidence before me, is not engaged.

Living conditions of neighbouring occupants

18. An enclosed bin store building is proposed such that I see no reason why, with good management, the proposed development would give rise to significant odour, bearing in mind that the bins would be put out for collection to the front of the site. I also note that no objection to the scheme has been raised by the Council's Environmental Services team.

19. Accordingly, I have found no evidence to indicate that the proposed refuse storage would significantly affect the living conditions of occupants of No. 5 New Barns Way, in terms of odour. As such, it would not conflict with Policy DBE9 of the LP, which seeks to ensure that development safeguards residents' living conditions, including with regard to smell.

Other Matters

20. The Council sets out that definition of mitigation measures for residential development within the area in which the appeal site is located, around the Epping Forest Special Area of Conservation (SAC) - to avoid harm to the SAC - is yet to be finalised with Natural England. Within the above context, and as I am dismissing the appeal for other reasons, I have not undertaken an Appropriate Assessment of the proposal.
21. I appreciate that the planning officer's report found insufficient harm in relation to character and appearance to justify refusal, but this does not alter my reasoning. In any case, Members reached a different conclusion.

Planning Balance and Conclusion

22. I have had regard to the benefits arising from the proposal. The provision of four new two-bedroom flats - three of which would be additional, given the existing bungalow - would contribute to local housing supply. The proposal would be accessible to shops and facilities at the Brook Parade local centre and, through local bus and rail services, beyond. The above would bring economic benefit to the area during and after construction. Given the scale of the proposed development, the benefit would be modest.
23. As such, given the extent and kind of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the relatively modest scale of benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal should be dismissed.

Conclusion

24. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR