



Appeal Decision

Site visit made on 20 October 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd November 2020

Appeal Ref: APP/J1535/W/20/3254690
89 Manor Road, Chigwell IG7 5PN

- 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 Rohit Lakhanpaul against the decision of Epping Forest District Council.
 - The application Ref EPF/2640/19 dated 1 November 2019, was refused by notice dated 1 May 2020.
 - The development proposed is described as a “planning application for demolishing existing bungalow and construction of new bungalow”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Epping Forest District Council Local Plan Submission Version 2017 (the LPSV) is currently under examination. However, as the LPSV has reached an advanced stage and information has been provided as part of the appeal on the examining Inspector’s advice regarding the main modifications to the plan, I have attached moderate weight to its emerging policies.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposed development on protected trees; and,
 - whether the proposed development would reduce housing choice within the District.

Reasons

Protected Trees

4. The proposal seeks to demolish an existing bungalow and replace it with a two storey dwelling. Located within the front garden of the adjoining property at No. 91 Manor Road, is a substantial London Plane tree (tree T1) which is the subject of a Tree Preservation Order¹ and overhangs the appeal site.
5. The appellant’s Arboricultural Impact Assessment² (AIA) concluded that the proposed dwelling would be sufficiently distance from tree T1 so that any direct

¹ Tree T1 of Tree Preservation Order/EPF/01/06

² AIA, All Arboriculture, dated 22 January 2020

damage to it would be extremely unlikely. In addition, any hard surfaces that run through the root protection area (RPA) of retained trees would need to be suitably engineered to reduce risk of damage.

6. However, the AIA does not provide sufficient information such as a plan identifying the location of tree T1 in relation to the proposed dwelling, its RPA, any protective fencing that may be required or indeed any other constraints that may affect tree T1 as a result of the development. In addition, the AIA does not detail how the existing dwelling would be demolished and the new dwelling erected in relation to tree T1 to ensure that it is not adversely affected by any development at the site.
7. Furthermore, I noted during my visit that the access within the appeal site and closest to tree T1 was surrounded by barriers and the ground had been disturbed, potentially within its RPA. Consequently, the AIA does not provide adequate information regarding the potential upgrade of the existing access. It also lacks details such as the storage of materials on the site and the parking of contractor vehicles, nor are any details of no dig and hand dig only areas provided, including monitoring of the tree during construction.
8. Therefore, notwithstanding the redevelopment of the adjoining site, given the lack of information regarding the potential effect of the development on the protected tree, I am not persuaded that these matters could or should be the subject of a condition requiring a method statement and I am inclined to adopt a precautionary approach. I therefore find that it has not been demonstrated that the proposed dwelling would not harm the wellbeing of tree T1 and that changes to the surface, levels and ground conditions could potentially harm the tree's root system and longevity. The loss of tree T1 would have a detrimental impact on the character and appearance of the area.
9. Thus, the development would be in conflict with Policy LL10 of the Epping Forest District Council Local Plan 1998 and Alterations 2006 (the Local Plan), emerging Policy DM 5 of the LPSV and paragraph 175 of the National Planning Policy Framework (the Framework) which seek, amongst other things, to ensure that developments retain and where possible enhance green infrastructure, including trees.

Housing Choice

10. The proposal seeks to replace the existing bungalow with a two storey dwelling. Emerging Policy H 1 of the LPSV seeks to resist the loss of bungalows and specialist accommodation in order to provide a range of accommodation for people with accessibility needs, including the current and future needs of older people. The appellant confirms that the development would be capable of adaptation to ensure that the ground floor area would be able to provide suitable accommodation to meet the needs of any disabled or elderly persons that may occupy the building in the future.
11. The Council states that although it accepts that the development would be fully accessible, the retention of bungalows is also to ensure that a different size and type of dwelling are available to maintain and increase the supply of units that are suitable for older residents. However, the existing building could be developed through the utilisation of permitted development rights and the introduction of dormer windows, or other alterations, to create a two storey dwelling. Moreover, I have not been provided with the Council's definition of a

bungalow or any evidence to suggest that the appeal property could not be altered in such a way that the single storey dwelling would be lost.

12. Furthermore, notwithstanding that the proposed dwelling would not be a bungalow, it would nonetheless be suitable for residents with accessibility needs, thereby adding to the mix of housing type available in the District. Therefore, I am satisfied that notwithstanding the loss of the bungalow, the development would not have a significant adverse effect on the availability of local housing choice for older people or those with accessibility needs, nor would it undermine the objectives of emerging Policy H 1 of the LPSV or paragraphs 63 and 127 (e) of the Framework in this respect.

Conclusion

13. Although I have found that the development would provide for adequate housing choice within the District, the appellant has failed to sufficiently demonstrate that the proposal would not affect a tree that is the subject of a preservation order. Thus, for the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR