
Appeal Decision

Site visit made on 9 August 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2022

Appeal Ref: APP/J1535/W/21/3286084

15 Pound Close, Nazeing, Waltham Abbey EN9 2HR

- 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 David Barnard against the decision of Epping Forest District Council.
 - The application Ref EPF/1159/21, dated 23 April 2021, was refused by notice dated 18 June 2021.
 - The development proposed is extension to house and conversion into 2no self contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies forming part of the Epping Forest District Local Plan: Submission Version 2017 (the LPSV) have been referred to by both of the main parties. As these policies are currently undergoing examination they attract only limited weight.
3. A Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990, dated 2 November 2022, was submitted during the appeal process (the UU). This relates to mitigation for air pollution and a restriction on the occupants of the proposed flats and their vehicles.

Main Issues

4. The main issues are the effects of the development proposed on: i) highway safety, and ii) the character and appearance of the area, with particular regard to the proposed outdoor space and intensification of the residential use.

Highway Safety

5. Pound Close is a cul-de-sac where the road wraps around an area of unenclosed green space containing mature trees and play equipment to its northern end. Parking on the road is unrestricted and the width of the carriageway limits on street parking to one side of the road. The majority of houses in Pound Close have off street parking in their front gardens with varying configurations. The presence of dropped kerbs provides a disincentive to park in front of those off street parking spaces.
6. The Essex County Council parking standards require minimum sized parking spaces measuring 2.5m by 5m. From the measurements provided by the

Council, which are not disputed by the appellant, the proposed spaces would not meet these minimum dimensions.

7. At the back of the site, given the two proposed parking spaces would be located within a private rear garden, any overhanging of vehicles using these spaces would not be likely to cause obstruction to the highway nor cause harm to highway safety.
8. By contrast, the existing hard surfaced area at the front of the site is more heavily constrained due to the position of the front wall of the house and its porch. The Council's measurements suggest the proposed parking bays here would fall substantially below both the minimum width and depth for a parking space as defined by the parking standards. As a consequence, the use of those parking bays would result in vehicles overhanging the footway and causing obstruction to pedestrians. This would result in pedestrians having to divert around parked cars and could result in pedestrians, including push chair and wheelchair users, using the road, to the detriment of highway safety. The extent of obstruction could be significant and the effects would be long lasting.
9. Even if one of the parking bays to the front of the site could be reorientated to be parallel to the road, the information provided does not demonstrate that this would be of an appropriate size, particularly given the location of the proposed cycle and refuse stores.
10. Despite the lack of parking restrictions on Pound Close, at the time of my site visit there were few opportunities for on street parking within the vicinity of the site, largely due to parked vehicles, the narrow width of the carriageway and the presence of dropped kerbs in front of many of the properties. While I appreciate that this represents only a snapshot of time, I do not have evidence before me to demonstrate that additional parking pressures resulting from a lack of adequate off-street parking on the appeal site, could adequately be accommodated on the road. I also note that the site is located in a reasonably sustainable location, with good access to services and facilities. However, I do not have evidence to suggest that this would necessarily reduce the harm arising from the development.
11. I note that previous occupiers of the appeal site, and the current occupier who intends to occupy part of the proposed development, have only one vehicle. However, those represent the circumstances of those particular occupants. The UU states that occupiers of the proposed units would be permitted to have only one vehicle stationed at, or near, the property. I have concerns relating to the enforceability of this obligation and its ambiguity, and it is unlikely to prevent increased parking pressures near the site, particularly as it appears only to apply for a period of 5 years.
12. Emerging Policy T1 of the LPSV states that reduced car parking in sustainable locations will be supported. Despite this, its supporting text clarifies that such reduced parking would be sought within 400m of a railway station which is not the case here. It also states that, until a local parking standard is adopted, the Essex County Council adopted parking standards will remain a starting point. Therefore, I do not find the emerging policy provides a basis for a reduced extent of parking for the appeal scheme. I appreciate that the Council may set its own local parking standards in due course, however I do not have evidence of what they may be or how they may apply to the appeal scheme.

13. The National Planning Policy Framework (the Framework) at paragraph 108 advises against the use of maximum parking standards. However, as this relates to the context of setting those standards, I do not find that this outweighs the conflict I have found with the development plan.
14. In relation to this main issue, the proposal would have a harmful effect on highway safety. The proposal would therefore conflict with Policies ST4 and ST6 of the Epping Forest District Local Plan 1998 and Alterations 2006 (the LPA) which together require development not to be detrimental to highway safety and to provide on site parking in accordance with the adopted standards. There would also be conflict with Policy T1 of the LPSV insofar as it requires development proposals to have appropriate parking provision and not to compromise highway safety.

Character and Appearance

15. Pound Close is characterised by residential properties of similar scale and design and some properties have undergone extensions and alterations. The properties are generally set forward on their plots, with gardens extending to the rear. Garden sizes in the surrounding area vary according to the plot sizes, however the scale of the rear gardens is difficult to perceive from any public view points due to varying structures and boundaries which infill gaps between the buildings at the ground floor level.
16. The proposal would subdivide the existing garden to provide outdoor space for each of the new units. Given the varying garden sizes and shapes in the surrounding area, in combination with the limited visibility that the subdivided garden would experience other than from first floor private viewpoints, I do not find that the proposal would cause harm to the character and appearance of the surrounding area. Details of hard and soft landscaping for the site could be secured by condition if the appeal scheme were otherwise acceptable, to ensure the new gardens would conform to the verdant character of the surrounding gardens, as suggested by the Council.
17. The Council have also raised concerns for the impact of the proposed intensification of the residential use of the site on the character and appearance of the area. For the above reasons I have found that the subdivision of the garden space would not cause harm to the character and appearance of the area. The Council accept that the other proposed alterations to the building, including extensions and alterations, have been found to be acceptable in design terms and I agree with that assessment. Overall, the physical manifestations associated with the subdivision of the property are limited and, where they would occur, I find they would not cause harm.
18. The Council have also raised concerns for a precedent. However, each proposal must be determined on its own individual merits and given the site-specific considerations in this instance in terms of the main issues here, I do not consider that such a generalised fear of precedent is central to my decision.
19. In relation to this main issue, the proposal would not be harmful to the character and appearance of the area. It would therefore be compliant with Policy DBE11 of the LPA insofar as it supports development that would not create an undesirable precedent or detract from the character of the surrounding area. The development would also comply with emerging Policy

DM9 of the LPSV which requires high quality design, and emerging Policy H1 relating to housing mix.

Other Matters

20. The Epping Forest Special Area for Conservation (the EFSAC) is designated under the Habitats Regulations as a European site and is subject to statutory protection under the Conservation of Habitat and Species Regulations 2017 (the Regulations). The effect of the proposed development on the EFSAC formed one of the reasons for which the Council refused planning permission. The UU was submitted in order to mitigate the impact of the development on air quality within the EFSAC.
21. However, as I am dismissing the appeal on other grounds, in line with paragraph 63(1) of the Regulations, it is not necessary for me to consider the development within the framework of an Appropriate Assessment. As such, this is not a matter which I need to consider further.
22. As well as relating to air quality mitigation, the UU would limit the future occupiers of the development to families of certain financial circumstances and would secure a discounted level of rent for the proposed new units. The appellant notes there could be consequent public gain in terms of welfare benefits. However, in the absence of substantive evidence of an identified need for this particular type of development in this area, it is not clear in this regard how the UU meets the test of being necessary to make the development acceptable in planning terms, as set out in paragraph 57 of the Framework. I afford this additional obligation minimal weight as a benefit of the proposal.
23. The proposal would provide housing in a location with accessibility to a good range of services and facilities, which is a benefit of the proposal. However, as the increase is limited to one unit, this does not outweigh the harm that I have found.

Conclusion

24. My conclusions on the second main issue and the benefits of the proposal do not outweigh my conclusion on the first main issue. The development would be contrary to the development plan as a whole and the appeal is dismissed.

C Shearing

INSPECTOR