



Appeal Decisions

Site visit made on 23 January 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 MARCH 2023

Appeal Ref: APP/J1535/W/22/3293378

2 Courtland Drive, Chigwell IG7 6PN

- 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 Megabay Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/1573/20, dated 23 July 2020, was refused by notice dated 2 February 2022.
 - The development proposed is demolition of existing dwelling and replacement with new structure containing 5 new dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This site is the subject of two appeals for different proposals. The other proposal is dealt with under a separate decision ref. APP/J1535/W/22/3305279.

Background and Main Issues

3. The main parties agree that should planning permission is granted for the proposal, it would be subject to a S106 agreement, which would secure a financial contribution towards the mitigation measures that are necessary to address the effect of new development on the Epping Forest Special Area of Conservation (SAC). A completed and certified copy of such an agreement has not been submitted within the required timescale.
4. As a consequence of the above, the main issues are the effect of the proposed development on i) the Epping Forest SAC and ii) the character and appearance of the area.

Reasons

Special Area of Conservation (SAC)

5. The appeal site is located within 3km of the Epping Forest SAC. In its Habitats Regulations Assessment (HRA) the Council has identified two pathways from residential development that may lead to significant adverse effects on the SAC. The pathways are Air Quality, as a result of more people driving within and in the vicinity of the SAC; and, Recreational Pressures, as a result of more people using the SAC for recreational purposes such as walking.

6. The Council has adopted an 'Interim Approach to Managing Recreational Pressures' on the SAC, which identifies a number of costed mitigation measures. The cost of providing these mitigation measures is to be achieved by seeking a financial contribution from new residential developments within a specified distance of the SAC.
7. As the proposal would increase the number of dwellings on the site from 1 to 5, which would inevitably result in increased vehicles and pedestrians, the appellant has confirmed they would be willing to make the required mitigation payment and that this would be secured by way of a S106 Agreement.
8. An incomplete draft S106 Agreement was submitted with the appeal. However, this has not been progressed by the main parties. Financial contributions cannot be secured by conditions and Planning Practice Guidance advises that a legal agreement can only be conditioned in very exceptional circumstances. It has not been put to me that there are any such circumstances here that would justify using a condition.
9. In the absence of a completed S106 Agreement to secure contributions to the mitigation measures necessary, I cannot be satisfied that the proposed development would not harm the integrity of the Epping Forest SAC. It would therefore conflict with Chapter 15 of the Framework and the Habitats Regulations.

Character and appearance

10. The appeal site is located on the corner of Courtland Drive and High Road. Both of these streets comprise large detached houses, set back from the road, with parking to the front. On the opposite side of High Road there are several blocks of five storey high flats.
11. The generous plot is currently occupied by a large two-storey detached house with rooms in the roof space and a detached double garage. It is bound by fences and hedges and is set back from the road by wide pavements and grass verges planted with trees. Vehicular access is taken from Courtland Drive, although the principal elevation of the existing house faces High Road.
12. It is proposed to demolish the existing dwelling and garage, which are of no architectural interest or merit, and to replace these with a new building, in the same position on the site as the existing dwelling.
13. The new building would have a basement carpark with two storeys above it, comprising 3No. ground floor and 2No. first floor flats. The eaves and ridge height would be no greater than those of the existing dwelling to be replaced or those of the adjacent houses. Although the principal elevation of the new dwelling would be longer than the existing one, its massing would be broken up by the varying building and roof lines, appearing almost as two linked dwellings. It would project roughly up to the front of the existing garage that is to be demolished, and little beyond the rear elevation of No.4 Courtland Drive.
14. The side elevation fronting Courtland Drive, despite being slightly wider than that of the existing dwelling, would replicate similar features such as the ground floor bay window. As other properties along Courtland Drive have wide frontages, the increased width of the building would not appear out of character with its surroundings.

15. The new building would be set further forward than the adjacent dwellings on both High Road and Courtland Drive. However, this is also the case with the existing dwelling. Accordingly, the pattern of development in the area would not be harmed and the staggered building line of Courtland Drive would be retained.
16. As the design and materials would reflect those of the existing dwelling and those surrounding it, the proposal would not appear incongruous. I acknowledge that the new building would be larger than the dwelling it would replace. However, given the size of the plot and the design of the building, with its varied elevation and roof lines, the proposal would not appear cramped or over dominant and would maintain the open spacious character of the area.
17. Whilst I am not convinced that a shared basement carpark of the scale and nature proposed would be practical or convenient for the future residents of 5 separate households, I do not agree that providing the option of underground parking would be harmful to the visual character and appearance of the surrounding area. Moreover, I note that the site is close to a good range of services and facilities and the area is well served by public transport. Cycle parking is also proposed. Accordingly, future occupiers of the development would not necessarily all need a car.
18. I therefore conclude on this issue that the proposal would not result in any harm to the character and appearance of the area. Consequently, it would accord with Policies CP2 and CP7 of the Epping Forest District Local Plan Alterations (July 2006), Policies DBE1, DBE3 and DBE9 of the Epping Forest District Local Plan (January 1998), Policy DM9 of the emerging Epping Forest District Local Plan Submission Version (2017), and Paragraphs 126 and 130 of the National Planning Policy Framework (2021) (the Framework). These seek amongst other things to ensure that new development is of high-quality design that respects its setting and the character of the locality.

Other Matters

19. I have considered the additional concerns of local residents with regards to the effect of the development on the living conditions of neighbouring occupiers, highway safety, loss of trees and landscaping and setting a precedent for other similar development in the future. I note the conclusions of the Council and relevant consultees, who found no harm in respect of these matters. Based upon my own assessment I have no reason to disagree.

Planning Balance and Conclusion

20. Whilst I have found that the proposal would not result in harm to the character and appearance of the area, this would not outweigh the harm to the Epping Forest SAC, which would result from the development in the absence of a mechanism for securing the necessary mitigation measures.
21. For the reasons given above, and having considered all relevant matters, I conclude that the appeal should be dismissed.

R Bartlett

INSPECTOR