



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/22/3305279

2 Courtland Drive, Chigwell, Essex 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 Mr John Digwa, Megabay Ltd. against the decision of Epping Forest District Council.
 - The application Ref. EPF/0583/22, dated 8 March 2022, was refused by notice dated 26 July 2022.
 - The development proposed is demolition of existing dwelling and erection of new replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of new replacement dwelling, at 2 Courtland Drive, Chigwell, Essex IG7 6PN, in accordance with the terms of the application, Ref EPF/0583/22, dated 8 March 2022, subject to the conditions set out in the attached schedule.

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/22/3293378.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. 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.
5. 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.
6. 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 dwelling, on a similar, albeit larger, footprint to the existing one.

7. The new dwelling would have a basement carpark with two storeys above it. 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.
8. 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 dwelling would not appear out of character with its surroundings.
9. The new dwelling 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.
10. 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 dwelling would be larger than the one it would replace. However, given the size of the plot and the design of the dwelling, with its varied building and roof lines, the proposal would not appear cramped or over dominant and would maintain the open spacious character of the area.
11. Although the plan contained in the basement impact assessment does not appear to match the position of the staircase shown on the proposed ground floor plan and does not show the parking and turning spaces, given its location below ground, its internal layout would have no effect on the appearance of the area. Moreover, there is sufficient ground level parking space within the site for a single dwelling without the basement. A suitably worded condition, similar to that suggested by the Council, could be attached to any grant of planning permission to ensure that adequate parking and turning space is approved by the Council and made available for use prior to the first occupation of the new dwelling.
12. 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

13. In addition to the main issue above, I have had regard to the other concerns raised by third parties. I note that the new dwelling would project slightly beyond the rear elevation of adjacent No.4 Courtland Drive and would be marginally closer to its boundary than the existing dwelling. However, given

- the orientation of the properties and the space between them, this would not be overbearing or result in any significant overshadowing loss of light or loss of outlook.
14. The proposed first floor windows facing No.4 would be fitted with obscure glazing and high level openings. This could be secured by an appropriately worded condition, along the lines of that suggested by the Council, if permission were granted. I note from the plans and my site visit that the existing dwelling has large, unobscured, first floor windows and rooflights in the elevation facing No.4, which allow a greater degree of overlooking than the proposed dwelling. Ground floor doors and windows would be screened by the boundary fencing and hedge.
 15. The front balcony would be much further forward than the front of No.4. and inset from the side of the house. Given the distance and orientation it would not result in any loss of privacy to the windows at No.4. As front gardens by their very nature are not private, some overlooking of this area would not result in any harm. It is also not uncommon for rear gardens to be overlooked by upper floor windows of neighbouring properties and the existing dwelling to be replaced has side and rear windows that offer views into neighbouring gardens.
 16. Waste bins and the proposed car lift would be sited behind the boundary fence and the neighbour's conifer hedge. There is no evidence before me to suggest that the car lift would result in a level of noise that would cause unacceptable disturbance to the occupiers of nearby dwellings. The separation distance would be sufficient to ensure these would not cause any harm.
 17. As this proposal relates to a single dwelling in an accessible location, close to services and facilities and served by public transport, the car parking requirements are minimal and future occupiers would not need to be reliant upon cars. In the event that the car lift was out of use, there would be sufficient space within the site for the occupiers of one dwelling to park at ground level. I also note that unrestricted parking is available along Courtland Drive and that the Local Highway Authority has raised no safety objections.
 18. A basement Impact Assessment has been submitted and the structural stability of the dwelling and basement would be controlled by Building Regulations.
 19. Whilst I acknowledge that the proposed dwelling is almost identical to the previously refused scheme for 5 flats, I must determine this case based upon the evidence before me and on the basis which it has been submitted. Any change of use would be subject to a new application for planning permission.
 20. As this replacement dwelling would not increase the number of households in the area, it would have a negligible impact on the Epping Forest Special Area of Conservation (SAC) and accordingly no mitigation measures are necessary.
 21. Mature trees adjacent to the site would be retained and could be protected by conditions attached to any planning permission granted. A landscaping condition could also be imposed to ensure suitable new landscaping is provided.
 22. Some local residents have commented that they were not notified of the proposed development. The Council's report confirms that adjoining properties were notified of the application. I am satisfied that this level of consultation

would be appropriate for the proposed replacement dwelling, which would fall within the category of minor development. I have also been provided with evidence from the Council, which shows that interested parties were notified of the appeal.

23. Although granting planning permission could potentially set a precedent for other large house extensions or replacement dwellings in the area, this would not be a reason to withhold planning permission. Each application would be dealt with on its own merits, having regard to the site-specific plans, constraints, any cumulative impacts and relevant planning policies in place at that time.

Conditions

24. The Council has suggested a list of conditions should the appeal be allowed. Some of these are prior to commencement conditions and the appellant has confirmed that they have no objection to these. I have considered the suggested conditions in line with the tests set out in the Framework and Planning Practice Guidance and have amended them as necessary.
25. In addition to the standard time limit and list of approved drawing numbers, conditions to agree external materials, landscaping and tree protection measures, and to control ground levels by requiring the removal of all excavated material, are necessary to ensure a satisfactory end appearance that is in keeping with the character and appearance of the area.
26. As the foul water from the proposed dwelling is proposed to go to the mains sewer, as does that of the existing dwelling being replaced, and there are no objections to that, it is unnecessary to condition the submission of any additional foul drainage details. However, it is reasonable to seek measures to reduce the surface water runoff into the main sewer in the interests of sustainable drainage and reducing flood risk.
27. To protect the living conditions of adjacent residents with regards to privacy, it is necessary to require the first-floor windows in the east facing elevation to be fitted with obscure glazing and fixed high-level openings. For the same reason it is necessary to remove permitted development rights for new windows in this elevation, above ground floor level. In order to minimise disturbance to adjacent residents, a construction hours condition is also necessary.
28. Given the size of the site and the limitations of what can be built under permitted development rights, I do not consider it necessary to remove these rights for porches and outbuildings. However, given the scale of the proposal and its proximity to neighbours, it is necessary to remove permitted development rights relating to extensions and roof alterations in order to protect both neighbouring residents and the appearance of the area.
29. In the interests of highway safety conditions are necessary to ensure agreed parking and turning is provided, that gates are set back and do not obstruct the highway and to prevent mud on the road caused by the demolition and construction processes.
30. Although the site and its surroundings are already in residential use and is Low/Moderate risk of contamination, the basement and increased footprint would involve a greater level of excavation than previously undertaken and therefore in accordance with the recommendations of the appellants phase 1

Land Quality Assessment Report and the Council's expert advisor, it is necessary to require a precautionary limited phase 2 investigation.

31. Matters relating to water efficiency and vehicle charging points are covered by building regulations. As the proposal relates to a single one for one replacement dwelling, the travel pack and broadband requirements would not in my view meet the tests for conditions. There would be a dwelling on this site regardless of the outcome of this appeal and the failure to provide broadband access or a travel pack would not result in a different decision.

Conclusion

32. For the reasons given above, and having considered all matters raised, I conclude that the proposal accords with the development plan taken as a whole and there are no material considerations which indicate a decision should be made other than in accordance with the development plan. The appeal is therefore allowed.

R Bartlett

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos.001; 002; 200; 201; 210 and 211.
- 3) No construction works above ground level shall take place until details of the types and colours of the external finishes of the dwelling hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) All material excavated from the below ground works hereby approved shall be removed from the site within 2 months of its excavation.
- 5) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents.
- 6) Prior to any above ground works, full details of both hard and soft landscape works, including tree planting and an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of the building. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts;

lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate.

- 7) If any tree, shrub or hedge shown to be retained or planted in the approved landscaping scheme is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 5 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 8) Prior to the commencement of the development details of the surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9) Prior to the first occupation of the dwelling hereby permitted the windows in the east facing elevation at first floor level and above, shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of those windows that is less than 1.7 metres above the internal floor level of the room in which it is installed shall be capable of being opened. These windows shall be retained as such thereafter.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order), no windows above ground floor level, other than those expressly authorised by this permission, shall be installed in the east facing elevation of the dwelling hereby approved.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that order) no extensions or roof alterations permitted by virtue of Classes A-C of Part 1, to schedule 2 shall be undertaken without the express permission of the Local Planning Authority.
- 12) All demolition/construction works and ancillary operations, including vehicle movements on site, which are audible at the boundary of the site, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays.
- 13) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 14) Prior to the commencement of the development a detailed layout showing the car parking, turning and manoeuvring space within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved vehicle/cycle parking and turning areas shall be provided and made available for use prior to the first occupation of the dwelling and shall thereafter be retained in perpetuity for their intended purpose.

- 15) Wheel washing or other cleaning facilities for vehicles leaving the site during demolition, preparation or construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed immediately.
- 16) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority.
- 17) Following completion of the measures identified in the approved remediation scheme, and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
- 18) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the Phase 2 report, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.