



Appeal Decision

Site visit made on 25 July 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/J1535/W/22/3301982

67 Palmers Grove, Nazeing, Waltham Abbey EN9 2QE

- 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 J. Jackman against the decision of Epping Forest District Council.
 - The application Ref EPF/2355/21, dated 26 August 2021, was refused by notice dated 17 January 2022.
 - The development proposed is a one bedroom detached bungalow after demolition of the existing garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal documentation includes a revised scheme, which the appellant suggests responds to the reasons for refusal. However, the revised scheme is for a larger dwelling than that considered by the Council. In addition, it has not been the subject of public consultation as part of the appeal proceedings.
3. Accordingly, I believe that if I were to determine this appeal with regards to the revised scheme, it would cause prejudice to the occupiers of neighbouring properties. Therefore, I have determined the appeal on the basis of the plans considered by the Council.

Main Issues

4. The main issues relevant to this appeal are:
 - the effect of the developments on the character and appearance of the surrounding area;
 - the effect of the development upon the living conditions of the occupiers of neighbouring properties, with particular reference to outlook;
 - whether appropriate living conditions would be provided for the future occupiers of the development; and
 - the effect of the development upon the Special Area of Conservation.

Reasons

Character and appearance

5. The appeal site is located on the periphery of the settlement. The nearby dwellings in the immediate vicinity of the appeal site are typically either

terraced or semi-detached and are arranged in a linear pattern. Owing to this pattern of development, views of the countryside are possible from the street. This countryside forms part of the Green Belt. These factors give the surrounding area a more open, verdant and less developed character.

6. The proposed development would diverge from the prevailing character given that the proposed dwelling would be of a detached type. This would therefore contrast with the prevailing character of semi-detached and terraced dwellings. In addition, the proposed development would be constructed in proximity to the site's side boundaries. This would contrast with the existing dwellings, which are generally set back from side boundaries.
7. In result, the proposed development would appear discordant given that the proposed development would conflict with the prevailing character of built form. In addition, there would be an erosion of the surrounding area's open character.
8. Furthermore, from the street it is possible to view the Green Belt beyond the appeal site. This includes, at least in part, views of mature trees. The proposed development would obstruct these views. In result, the proposal would result in a loss of the existing verdant and less developed character that is a feature of the appeal site and the surrounding area. This would occur even though the rear boundary of the appeal site is adjacent to another dwelling's garden.
9. This adverse effect would be exacerbated by the development having a large footprint. This would render the proposed developments an incongruous addition to the locality.
10. This causes concern owing to the general level of prominence of the proposed development. The proposed development would be readily viewable from several dwellings within the surrounding area in addition to many public viewpoints such as within the highway. Therefore, the proposed development has the potential to be experienced by a significant number of people which would render the incongruous form of development notably strident.
11. The appeal site features an existing side garage and I understand that there were originally other built features on the site. However, these would have been smaller than the proposed development. In consequence, the proposed development would have a greater effect.
12. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policies DM9 and DM10 of the Epping Forest Local Plan (2023) (the Local Plan). Amongst other matters, these seek to ensure that proposed developments achieve a high quality of design; and include enhanced provision of green infrastructure.

Living conditions of neighbouring occupiers

13. The proposed development comprises the erection of a single storey bungalow. The development is also located within a line of existing dwellings. Aside from the appellant's existing dwelling, the nearest neighbouring dwelling consists of a bungalow at No. 69. The side boundaries of the site are marked by wooden fences. In addition, the appeal site is located on land that is slightly higher than the neighbouring property at No. 69.

14. Although the proposed development is a bungalow, it would be notably taller than the boundary treatments that mark the edge of the appeal site. Therefore, the proposed development would be readily apparent when viewed from the neighbouring property.
15. On account of its footprint and general proportions, the proposed dwelling would project further back into the site when compared to the neighbouring dwelling at No. 69. Therefore, the proposed development would result in a significant enclosing effect upon the neighbouring property.
16. This would result in a reduction in the overall level of outlook for the users of the rooms served by the rear elevation windows. In addition, the proposed development would result in a diminished level of outlook for the users of the rear garden of the neighbouring property. These adverse effects would be exacerbated by the fact that the appeal site is located on land that is higher than the neighbouring property. In consequence, the proposed development, when viewed from No. 69 would appear to have a greater height.
17. These adverse effects would be particularly concerning as the rear garden of No. 69 is the only location where outdoors private recreation might take place. In result, the lack of appropriate levels of outlook within the rear garden would render these areas less suitable for the undertaking of recreation. Therefore, the effects from the proposed development would be particularly significant and adverse.
18. The proposed development would feature a set back from the side boundaries of the appeal site. However, the degree of this would be relatively small and would therefore not mitigate the overall effects of the proposed development.
19. It has been suggested that an extension could be erected at the property. However, such a side extension would require the prior approval of the Council. As I cannot be certain that such approval would be forthcoming, there is some doubt that such an extension could be constructed at the dwelling. This does not therefore allow me to disregard my previous concerns.
20. I therefore conclude that the proposed development would have an adverse effect on the living conditions of the occupiers of neighbouring properties. The development, in this regard, would conflict with the requirements of Policy DM9 of the Local Plan. Amongst other matters, this seeks to ensure that new developments take account of the amenity of the development's neighbours.

Living conditions of future occupiers

21. The proposed development consists of a single dwelling which would have one bedroom. It is therefore likely that the dwelling would not be occupied by a family. The dwelling would also include room for recreation and storage space. The development will also include a private garden.
22. It has been suggested that the proposed development would fall below the levels prescribed within the Nationally Described Space Standards (the NDSS). In considering this appeal, I have been directed towards Policy DM10, which seeks to ensure that proposed developments are constructed in accordance with the NDSS.
23. Although the proposed development would feature a single bedroom, there is a reasonable likelihood that the dwelling could be occupied by a couple. In result,

the fact the proposed development would not meet the requirements of the NDSS is particularly concerning.

24. This is because the proposed development would not feature sufficient internal space for the undertaking of routine domestic activities, or the storage of household items. This means that the proposed development would not provide appropriate living conditions for the future occupiers of the proposed development.
25. I understand that the intention is that the proposed development would be occupied by a relative of the appellant. This potentially means that some facilities could be shared with the occupiers of the existing dwelling. However, the appeal scheme is for a separate, self-contained dwelling.
26. Therefore, there is a reasonable likelihood that, at some point in the future, the existing and proposed dwellings would be occupied by households unconnected with each other. This means that the adverse effects arising from the lack of internal space would occur and prevent a satisfactory standard of accommodation from being secured.
27. The proposed development would feature sufficient space within the private rear garden for the undertaking of outdoors recreation bearing in mind the scale of the development and the likely number of people that would occupy it. However, this would not overcome my previous concerns.
28. I therefore conclude that the proposed development would not secure satisfactory living conditions for the future occupiers. The development, in this regard, would conflict with the requirements of Policy DM10 of the Local Plan. Amongst other matters, this seeks to ensure that developments meet or exceed the minimum internal space standards set out in the Nationally Described Space Standards.

Effect on the Special Area of Conservation

29. The appeal site is in relatively close proximity to the Epping Forest Special Area of Conservation. In particular, the significance of the Special Area of Conservation, in part to derived from the presence of less developed areas, the presence of trees and other former, and wildlife. This means that it is particularly sensitive to the effects arising from changes in activity.
30. The proposed development would, by reason of its nature, result in an increase in the number of people living within the locality. It therefore follows that there would also be an increase in the demand for recreation space owing to this increase in population.
31. Therefore, it is likely that this increase in population would result in an increased demand for outdoors recreation facilities and journeys to enable this to take place. Due to its convenience, it is likely that the development would direct such activities to within the Special Area of Conservation. The development would therefore lead to an increase in outdoor recreation within the Special Area of Conservation.
32. This means that, should the development proceed, there be more people present in the Special Area of Conservation which is likely to have an adverse effect above the well-being of plants and wildlife. This would erode the overall level of significance of this area.

33. In addition, by reason of the nature of the location of this Special Area of Conservation, it is likely that there would be a greater number of vehicle movements to and from it and also within it. Such an increase in vehicle movements is also likely to lead to an increase in emissions from vehicles. This means that the proposal has the potential to lessen the overall level of air quality within the Special Area of Conservation.
34. Although it has been suggested that the development would be occupied by a member of the appellant's family. However, there is no mechanism before me by which this might be secured. Therefore, there is a likelihood that, in the future, the dwelling could be occupied by people not related to the occupiers of the existing dwelling. This would give rise to the previously identified adverse effects.
35. It has been suggested that the developer could enter into a legal agreement to provide a financial payment to the council. This would result in the provision of alternative areas of natural space where recreation could take place outside of the Special Area of Conservation. However, the evidence before me does not include any such form of a legal agreement. therefore, the proposed development would not secure any such financial contributions.
36. I have given consideration as to whether a condition could be imposed in order to secure such a payment. However, as it would require the payments of some money between the developer and the council, any such condition would not meet the legal test of reasonableness and, in consequence, cannot be imposed. therefore, this suggestion does not overcome my previous concerns.
37. The appellant has suggested that the requirement to enter into a legal agreement to secure a financial contribution for alternatives to the Special Area of Conservation is a relatively new requirement. I have no reason to believe that this might not be the case, however, it is necessary to ensure that planning decisions are determined in accordance with the current development plan.
38. Given that I have been directed towards adopted planning policies that seek to ensure that the proposed development would not have an adverse effect upon Special Areas of Conservation, the absence of a legal agreement is therefore particularly concerning. Therefore, the chronology of events as suggested by the appellant does not allow me to forego my conclusions.
39. I therefore conclude that the proposed development would have an adverse effect upon the Special Area of Conservation. The development, in this regard, would conflict with the requirements of Policies DM2 and DM22 of the Local Plan. Amongst other matters, these seek to ensure that new developments assist in the conservation and enhancement of the biodiversity of Epping Forest; and ensure that the district is protected from the impacts of air pollution.

Other Matters

40. I understand that planning permission has been granted in principle for an alternative scheme on this site, subject to the completion of a legal agreement for a financial contribution to mitigate the effects on the Special Area of Conservation. However, it is apparent that this scheme is of different design.

This means that the effects would also be different. In consequence, this does not allow me to forego my findings in respect of the main issues.

41. The proposed development would result in an increase in the local housing supply. However, given that the development is for a single dwelling only, the benefit to the housing supply is relatively limited. This does not outweigh the adverse effects of the development.
42. Concerns regarding the manner in which the Council determined the planning application fall outside of the scope of this decision.

Conclusion

43. The proposed development would have an adverse effect upon the character and appearance of the surrounding area; the living conditions of the occupiers of the neighbouring property; the Special Area of Conservation; and would not provide appropriate living conditions for the future occupiers of the development.
44. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR