



Appeal Decision

Site visit made on 10 August 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/J1535/W/22/3300039

56 Tycehurst Hill, Loughton, Essex IG10 1DA

- 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 Peter Argent against the decision of Epping Forest District Council.
 - The application Ref EPF/0240/22, dated 01 February 2022, was refused by notice dated 6 April 2022.
 - The development proposed is described as demolition of the existing 1.5 storey dwelling as previously agreed (EPF/1008/16). Subdivision of site into two plots. Erection of replacement bungalow on the western plot. Erection of three-storey family dwelling on the eastern plot.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the decision was issued, the Epping Forest District Local Plan 2011-2033 (LP) has been adopted superseding the 1998 Epping Forest District Local Plan and the Epping Forest District Local Plan Alterations (2006). The main parties have had the opportunity to comment on the situation. I have had regard to their responses and determined the appeal according to the adopted development plan at the time.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of future occupants with particular regard to outlook and external amenity space; and
 - the living conditions of neighbouring occupiers with particular regard to outlook and privacy;

Reasons

Character and appearance

4. Tycehurst Hill is located within a residential suburb of Loughton that is characterised by substantial houses in a mature townscape. The road is lined with large detached houses in substantial plots, generally with mature planting in both front and rear gardens. A number of properties in the vicinity of the appeal site have been extended or redeveloped and the houses are mixed in character, exhibiting a variety of architectural styles. Despite the varying

designed and styles of properties along Tycehurst Hill, there is a strong and consistent building line to either side of the road. This gives the area a verdant and pleasant suburban quality.

5. The appeal site sits on the bend in Tycehurst Hill as it turns upwards towards Sparelease Hill. The site currently contains a single-storey dwelling with rooms in the roof space set in and down within the site. As a result of its low level and despite being slightly set forward of No. 60 Tycehurst Hill, the existing dwelling has a subservient appearance within the street scene, which aids the transition of the built form on this section of the street as it lowers and bends towards No. 54 Tycehurst Hill. There are substantial level changes at the site, with the detached garage set at a considerably lower level than the host dwelling with the access further along and at the bottom of the bend. At the time of my visit, the dwelling on site was unoccupied, and the appeal site was heavily overgrown. Nonetheless, the existing trees and boundary hedge formed part of the verdant suburban quality noted above.
6. Having regard to the mixed nature of the surrounding area, with both traditional and modern development, the design of plot 2 would not cause harm to the character or appearance of the locality. The proposed materials would also be appropriate complementing other built development in the area.
7. However, given the constraints of the site with land level changes and in order to accommodate two dwellings on site, plot 2 would be sited forward of no. 60. As a result of its height, mass and form sitting forward of existing dwellings on this side of the street, the introduction of the proposed dwelling on plot 2 would erode the consistent rhythm of built form and appear as an incongruous addition within the street scene. Furthermore, the height and proximity of plot 2 to plot 1 would result in a dominant form of development at odds with the prevailing pattern of development thereby harming the character and appearance of the area.
8. Additionally, the combination of plots 1 and 2 would result in a cramped street scene, in a prominent location on the bend in contrast to the more well-sized plots found nearby. As a consequence, the introduction of the proposed two dwellings would be harmful to the more spacious character found within the locality, and as a result would be detrimental to the overall appearance of the area. In reaching this view, I have had regard to the appellant's aim to try and mirror the scale of dwellings on either side of the bend at No. 54 and 60. However, for the reasons set out above, this has not been achieved, and the development therefore fails to make efficient use of the land.
9. I have already established that the existing trees and boundary hedge make an important contribution to the surrounding area. In this regard, LP Policy DM5 requires proposals to demonstrate that they have been designed to retain and where possible enhance existing green infrastructure, which includes trees.
10. The proposed development would see the removal of a number of established trees within the site. There would be some replacement trees planted. However, there is no substantive evidence before me to demonstrate the appeal scheme has been designed to retain existing on-site trees. Even if I were to accept that it was not possible to retain the existing trees, the planting scheme proposed would take some time to mature, whereby the incongruous nature of the development would be readily visible. Furthermore, given the limited nature of the planting scheme, even when fully established, it would not

make the same contribution the existing trees currently contribute towards a pleasant sense of space and openness in this part of the street scene.

11. The proposed development would therefore be contrary to LP Policies DM5 and DM9. These require, amongst other things, development to contribute to the distinctive character of the local area, relate positively to its context and demonstrate proposals have been designed to retain and enhance green infrastructure. It would also conflict with the provisions of the National Planning Policy Framework (the Framework), which seeks a high standard of amenity for future users and that existing trees are retained wherever possible.

Living conditions - future occupiers

12. The submitted drawings show access onto the garden fronting the bend on Tycehurst Hill. This area of the garden would be highly open to views from the street such that it would not offer future occupiers an acceptable level of private outdoor amenity space. From the evidence before me and my observations on site, future occupiers would therefore have to seek private amenity space to the boundary adjoining plot 2.
13. As shown on submitted drawing no's. 200 and TAC – 231 Rev A, much of the private outdoor amenity space available for plot 1 would be sited alongside the side boundary of plot 2 at a substantially lower level when taking into account site level changes and the boundary wall. As a result of the limited dimensions of this area of the garden, a short separation distance between the proposed dwelling and the rear boundary of the site would exist, leaving only a narrow section of private garden. As a result, the boundary to plot 2 is of such a height and close distance that it would appear as an overbearing and imposing feature enclosing this small, cramped garden area, thereby providing an unsatisfactory outlook and inviting private outdoor space for future occupiers of the proposed dwelling.
14. Notwithstanding my findings above, having considered the relationship between plots 1 and 2 and the positioning of windows on plot 1, I find that the layout of plot 1 would allow for adequate outlook from rooms closest to the boundary with plot 2.
15. For the reasons set out above, the proposed development would fail to provide satisfactory living conditions for the future occupiers, with particular regard to outlook and access to private outdoor space. It would therefore be in conflict with Policy DM9 of the LP, which seeks, amongst other things, to ensure that development takes into account privacy and amenity and is not overbearing or overly enclosing. It would also conflict with the provisions of the Framework which seeks a high standard of amenity for future users.

Living conditions - neighbouring occupiers

16. The dwelling to occupy plot 2 would be readily visible from rear windows and the rear garden of No. 54 Tycehurst Hill when looking in the direction of the site, inevitably creating a change in outlook from this location due to the added built form. However, the positioning of plot 2 set well in from the site boundary would ensure no undue sense of enclosure in the rear garden or on to rooms on the rear elevation of No. 54.
17. The upper-level windows on plot 2 would serve dressing rooms and en-suites but could easily be altered to serve more habitable rooms and in either

situation there would likely be a degree of overlooking from these rooms. However, this is not unusual in a built-up area such as this and given the separation distances involved, I am satisfied that this would not be significant or unacceptable.

18. Accordingly, I find that the development would not result in harm to the living conditions of existing occupiers in terms of outlook and privacy. It would not conflict with LP Policy DM9, insofar as it seeks to ensure that development does not result in detrimental harm through overlooking, loss of privacy or is overbearing. It would also comply with the provisions of the Framework which seeks a high standard of amenity for existing users.

Other Matters

19. The site is located within the Zone of Influence for the Epping Forest Special Area of Conservation (SAC) which is subject to pressures from air pollution and recreational disturbance. However, as the appeal is being dismissed on grounds related to character and appearance and the living conditions of future occupiers, an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required. In any event, this would have mitigated harm and would not have amounted to a benefit. For these reasons, I have not considered this matter further.
20. My attention has been drawn to a previous application ref: EPF/1008/16. This application was granted for a larger replacement dwelling on the appeal site. However, the permission was not implemented, and I have therefore afforded little weight to this previous consent granted by the Council which included the removal of trees on-site at the time of the application.
21. The application was preceded by pre-application advice¹, which concerned the demolition of the existing dwelling and the erection of two dwellings, and which indicated that two dwellings were considered likely to be acceptable by the Council at that time. The Framework acknowledges the benefits of early engagement and good-quality pre-application discussion. While such advice is not binding, it is clearly unfortunate when a different decision is reached on an application. The Council's advice letter is clear however that it represents an informal opinion only, and that it was given without prejudice to any decision the Council may make on any subsequent formal planning application. Furthermore, the letter does advise that the officer's view is given without the benefit of a street scene plan to inform their opinion. Ultimately, I must deal with the appeal based on its planning merits and have found detrimental harm for the reasons set out above.
22. A lack of harm from other issues such as parking, highway safety and bin storage are neutral factors and do not weigh in favour of the scheme.

Planning Balance

23. The Council considers that it can now demonstrate a 5-year supply of housing and the appellant has not provided any substantive evidence to the contrary. I have also had regard to the evidence provided by the appellant that the Council's 5-year supply is dependent on an element of windfall sites such as the appeal site.

¹ Ref: EF\2021\ENQ\00835

24. I acknowledge the existing dwelling on site is not occupied and is in need of some maintenance. However, there is no substantial evidence before me that it is beyond economical repair or cannot, subject to modernisation, provide a property suitable for older people and disabled persons with adequate accessibility. It would, nonetheless, enable the delivery of an additional dwelling in an established residential area, with access to nearby facilities and services on a previously developed site suitable for various occupiers. There would be social and economic benefits associated with employment during construction and as future occupants would buoy up the local economy.
25. However, the benefits of a new dwelling, even if it was for an accessible bungalow, would be confined to an incremental numerical addition, and other benefits similarly limited given the scale of the scheme. Consequently, even if there were a shortfall in the supply of housing land, by a reduced number of dwellings on windfall sites, as suggested by the appellant, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

26. The proposal would not result in detrimental harm to the living conditions of neighbouring occupiers. Notwithstanding this and for the above reasons, the development would be detrimentally harmful to the character and appearance of the area and the living conditions of future occupiers. As a result, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
27. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR