



Appeal Decision

Site visit made on 1 September 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2023

Appeal Ref: APP/J1535/W/22/3304201

176 Honey Lane, Waltham Abbey EN9 3BA

- 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 Alex Piggott (Regenta Development Limited) against the decision of Epping Forest District Council.
 - The application Ref EPF/0235/22, dated 31 January 2022, was refused by notice dated 22 May 2022.
 - The development proposed is demolition of an existing bungalow and erection of two new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing bungalow and erection of two new dwellings at 176 Honey Lane, Waltham Abbey EN9 3BA, in accordance with the terms of the application, Ref EPF/0235/22, dated 31 January 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the Council determined the application, it has adopted the Epping Forest District Local Plan 2011-2033 (the DLP) on 6 March 2023, replacing the 1998 Local Plan and 2006 Alterations documents, which have been revoked. I have given the parties the opportunity to update their evidence in light of this change to the policy context and have determined the appeal with regard to the policies of the new DLP.
3. During the appeal, the appellant has submitted unilateral undertakings to address the Council's second reason for refusal. I have taken this into consideration in my reasoning below.

Main Issues

4. The main issues are:
 - i) Whether the proposal would provide an appropriate mix of housing, having regard to the contribution made by the existing dwelling;
 - ii) The effect of the proposal on the character and appearance of the area;
 - iii) Whether the proposal would prejudice development of the remainder of the site, and;
 - iv) The effect on neighbours' living conditions, with respect to outlook and enclosure;
 - v) The effect on designated nature conservation sites.

Reasons

Mix of Housing

5. The site contains an existing chalet bungalow, presently vacant and in a state of some disrepair. It would be demolished and replaced with a pair of semi-detached, two storey dwellings. Policy H1(e) of the DLP resists the loss of bungalows and specialist accommodation. The supporting text to the policy sets out that bungalows can support the needs of those with accessibility requirements, including older people, but that the local stock of bungalows is being gradually eroded. The glossary to the DLP defines bungalow as 'a house having only one storey,' but adds that 'a bungalow can have accommodation in the roof space served by accompanying roof lights and dormer windows.'
6. I have noted the appellant's concerns that a definition of 'bungalow' was not included in draft versions of the DLP, but I do not have sufficient evidence to discern exactly when a definition was added to the glossary. Regardless, the definition as set out above now forms part of the adopted DLP and regard should be had to it.
7. On its face, the existing dwelling would fall within the definition of a bungalow under the DLP, as the first floor accommodation is within the original roof space. Although the appellant points to the main bedroom being upstairs, I saw there to be ample room on the ground floor for at least one bedroom to be accommodated.¹ Despite the poor internal condition, I have no evidence that the dwelling is beyond economical repair or could not otherwise be occupied again as an accessible property. As such, the loss of the bungalow would conflict with Policy H1(e) of the DLP which requires a suitable mix of housing to be provided across the district.

Character and Appearance

8. The bungalow formerly occupied a large site with a deep rear garden, but a row of four dwellings have been developed to the rear of the site facing towards the front. The bungalow now stands on a smaller plot with an access road running alongside, separating it from its detached garage.
9. The bungalow forms the end dwelling on this side of Honey Lane, which is characterised by linear rows of dwellings facing the street in a suburban style. However, the dwellings on the adjacent side are predominantly two storeys in height and have a clear presence in the street scene. By contrast, the bungalow is secluded by tall trees to the front and side elevations. As a result, it is not prominent when travelling along Honey Lane in either direction, or when viewed from properties opposite. Moreover, the dwellings to the rear of the site, and notable development further to the rear on Cobmead Grove, have created a depth of development that forms a more robust edge to the built form on this side of Honey Lane.
10. In this context, the bungalow appears out-of-place amid the surrounding two storey dwellings. The proposed dwellings would reflect the scale and design of those built to the rear and, in this respect, they would contribute to a more unified development across the site compared to the existing situation. I note concerns about the overall density of development, but from my visit I am satisfied that there would be sufficient space around the proposed dwellings,

¹ Based on my site visit as the submitted plans did not accurately reflect the existing internal layout

and to the dwellings at the rear, that the development would not appear squeezed onto the site in a cramped manner but would compare with the density to the rear on Cobmead Grove.

11. The dwellings would stand forward of the general front building line along Honey Lane, and in standing perpendicular to the road they would be unique to the immediate surroundings, but they would still be set several metres back from the front boundary and would be heavily filtered by tree cover to the front and sides. Consequently, the dwellings would not appear prominent within the street scene and would not disrupt a consistent pattern of development.
12. However, even if some tree cover to the front was removed, the perpendicular orientation of the dwellings, standing at the edge of the built form, would act as a bookend to development on this side of Honey Lane. In facing the internal access road, the dwellings would also contribute to a more co-ordinated scheme within the site when viewed with the four dwellings built behind.
13. For these reasons, I conclude that the proposal would preserve the character and appearance of the area, in accordance with Policies SP2 and DM9 of the DLP, which require development to achieve high quality design and contribute to the distinctive character and amenity of the local area.

Remainder of site

14. The Council is critical of the proposal potentially jeopardising redevelopment of the existing detached garage across the access road. Despite the Council's concerns, I am told it has twice refused permission for a dwelling in this area and I have no evidence before me to indicate that this area is required to be redeveloped, that an additional dwelling is the only form of development that could be realised there, or that the existing garage cannot be retained. I also saw that the area immediately to the rear of the garage has been given over to two parking spaces, and the access road runs demonstrably closer to the side of the garage than on the plans I have before me. These factors constrain the size of the site that could be redeveloped, separate from any effect the proposed dwellings may have. Ultimately, any future application for this area will fall to be assessed on its own merits, having regard to the prevailing site and policy circumstances at the time it is made. As such, I am not persuaded that a decision to allow this appeal would inherently jeopardise redevelopment of the remainder of the site.

Neighbours' Living Conditions

15. The flank wall of the southern dwelling is stated to be some 17m from the front building line of the four dwellings to the rear of the site. The Council has not provided me with any guidance it applies in respect of separation distances between dwellings. However, from my site visit, I saw that the existing and proposed dwellings would be separated by a side garden, the access road and front driveways. The side gable wall would also not be excessive in height or depth and would not occlude the outlook from the dwellings at the rear to a noticeably greater extent than the existing dormer bungalow.
16. The side wall would also contain only two small windows serving bathrooms, which would be obscurely glazed and prevent overlooking towards the dwellings at the rear. Indeed, this would represent an improvement on the

current situation whereby clear rearward views are possible from the first floor of the dormer bungalow towards the dwellings at the rear.

17. The Council also refers to the effect on the dwelling at No 174. This is a large, two storey dwelling to the far side of the detached garage. Its blank flank wall faces the appeal site and from my observations, the dwellings would be sufficiently distant from No 174 and positioned such that only glimpsed, oblique views over the garage may be possible from some upper floor windows. Such an arrangement would not materially harm outlook for occupants of No 174, nor would there be a material loss of light or privacy.
18. For these reasons, I conclude that the proposal would not result in harm to neighbours' living conditions, and no conflict therefore arises with Policy DM9 of the DLP in terms of its requirements that development takes account of the privacy and amenity of the development's occupiers and neighbours, including avoiding overlooking, overbearing or overly enclosed forms of development which materially impact on outlook.

Designated Nature Conservation Sites

19. The appeal site lies within the zone of influence of the Epping Forest Special Area of Conservation (SAC), designated for the presence of several qualifying habitats and species, notably beech trees and wet and dry heaths and for its population of stag beetle. The conservation objectives of the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the favourable conservation status of its qualifying features. As the competent authority at the appeal stage, I have a statutory duty to ensure that the integrity of this area is not harmed. Policy DM2 of the DLP reflects this duty.
20. The SAC is subject to recreational pressures that have potential to adversely impact on the nature conservation of the site, including fire risk, damage, disease, eutrophication and habitat disturbance. In addition, the Council has identified the application as potentially adding to traffic and therefore air pollution in the area.
21. The Council has published an updated Site Access Management and Monitoring Strategy (SAMMS) (April 2022) and an Interim Air Pollution Mitigation Strategy (IAPMS) (December 2020) to address these issues through a framework of financial contributions from new residential development to fund strategic mitigation measures and monitoring activities, including the enhancement of alternative spaces and corridors that can relieve the recreational pressure on the Forest and taking forward an area wide public transport strategy to support the objective of getting more visitors to come to the Forest by means other than the car.
22. On the evidence before me, I am satisfied that the contributions sought by the Council are required to make the development acceptable in planning terms, and otherwise meet the tests for planning obligations set out in Paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The appellant has provided a unilateral undertaking² to secure the required contributions and monitoring fee. Therefore, the proposal would be capable of mitigating its impact on the SAC, such that that the

² The undertaking I have considered is that dated 16 October 2023, which supersedes an earlier undertaking that did not include the correct contribution amounts.

integrity of the designated site would not be harmed, and no conflict would arise with Policy DM2 of the DLP.

Other Material Considerations

23. The Council did not refuse permission in respect of highway safety, flood risk, trees, land contamination or protected species. I have no substantive evidence to reach different conclusions in these matters, and they do not weigh against the proposal in the planning balance.

Planning Balance

24. The appellant points to the Council's poor rate of housing delivery, with the 2022 Housing Delivery Test (HDT) indicating the Council has met only 35% of its housing requirement over the preceding three years. This means that, pursuant to Footnote 8 of the Framework, Paragraph 11(d)(ii) is engaged which sets out that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. The adverse effect of the proposal would be the loss of a single bungalow. This would reduce housing choice, albeit to a modest extent. Having regard to the small scale of loss and the context of redevelopment of its original site, I find the adverse impacts in this case would attract moderate weight overall.
26. Set against this, the proposal would deliver a net gain of one dwelling for the housing stock, in line with the Framework aim of significantly boosting the supply of homes nationally and at a time when the Council's rate of overall housing delivery has fallen significantly short of its requirement.
27. The proposal would also deliver modest economic benefits through the construction of the dwellings and spending by future residents, in line with the Framework support for economic growth. The proposal would also create a more cohesive overall development on the wider site, improving the appearance of the area in a limited manner, consistent with the aspiration for high quality design in the Framework.
28. In the circumstances, I find that the adverse impacts arising from the loss of one bungalow would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies.
29. Consequently, despite the conflict with Policy H1, the Framework presumption in favour of sustainable development constitutes a material consideration of significant weight that justifies a determination other than in accordance with the development plan.

Conditions

30. I have had regard to the list of suggested conditions provided by the Council. Where necessary, I have amended their wording to ensure they meet the relevant test for conditions set out in the Framework. The appellant has also confirmed their agreement to those conditions which would be pre-commencement.
31. In addition to the statutory time limit for implementation, a condition setting out the approved plans is necessary to provide certainty.

32. Conditions are required to assess for contaminated land. It is further necessary to secure the implementation of tree and ecological protection measures during the construction phase, to protect the natural environment. These are pre-commencement as they relate specifically to impacts that could occur from the start of the construction phase and the conditions would be ineffective or lead to harm or loss were they required to be addressed at a later stage.
33. A condition specifying hours of construction is necessary to protect neighbours' living conditions. Details of the means of surface water drainage are required to address the potential for flooding. Details of hard and soft landscaping are required to ensure a satisfactory appearance. To ensure neighbours' privacy, it is necessary to require windows in the southern flank elevation to be obscurely glazed and non-opening to a sufficient internal height. A condition limiting water use is required to promote sustainability.
34. To ensure safe access, it is necessary to require vehicle parking and turning areas to be laid out prior to occupation. Installation of electric vehicle charging points is also required to promote sustainable modes of transport. I have not imposed a condition requiring provision of a Residential Travel Information Pack as this is not explicitly set out as a requirement under Policy T1 of the DLP and given the small scale of development, such a requirement is not otherwise necessary to make the proposal acceptable in planning terms.
35. Finally, given the particular form and layout of the development and its relationship to neighbouring buildings, it is necessary to remove permitted development rights for extensions and alterations to the dwellings or their roofs or the erection of outbuildings which may otherwise lead to harm to the appearance of the buildings or the living conditions of adjoining occupants.

Conclusion

36. For the reasons set out, the appeal should be allowed.

K Savage

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:
556/3/000 Rev A (Site Location Plan - As Existing); 556/3/001 Rev A (Site Location Plan - As Proposed); 556/3/010 Rev A (Existing Bungalow - Roof Plan and Elevations); 556/3/011 Rev A (Proposed House - Plans, Elevations and Section); 556/3/012 Rev A (Proposed Site Sections); OS 1438-17.3 Rev 1 (Tree Protection Plan); Preliminary Ecological Appraisal Incorporating Bat Survey Inspection by Open Spaces (January 2022; Ref: OS 1438-17-Doc 5); Energy Statement by NRG Consulting (January 2022); Sustainability Checklist (October 2020); Design and Access Statement; EFSAC Trip Generation Assessment by EAS (January 2022); Arboricultural Impact Assessment by Open Spaces (January 2022, Ref: OS 1438-17-Doc 7 - House Site).
- 3) A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and

prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

- 4) Tree protection shall be installed as shown on Open Spaces 'Tree Protection Plan' drawing number OS 1438-17.3 Rev 1 (dated 17 February 2022) prior to the commencement of development activities (including any demolition). The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports.
- 5) The proposed development shall be undertaken at all times in accordance with the recommendations made in the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection by Open Spaces (January 2022; Ref OS 1438-17- Doc 5).
- 6) All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, 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 unless otherwise agreed in writing by the Local Planning Authority.
- 7) No development, except for demolition, shall take place until details of surface water disposal have first been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the means of surface water disposal has been implemented in accordance with the approved details.
- 8) Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. 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; other minor artefacts and structures, including signs and 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.

If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 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.

If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be replaced at the next planting season, unless the Local Planning Authority gives its written consent to any variation.

- 9) The first floor window openings in the southern flank elevations shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 10) Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 11) Prior to the first occupation of the development the vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The parking and turning areas shall be retained in perpetuity for their intended purpose.
- 12) Prior to first occupation of the development hereby approved, 1 Electric Vehicle Charging Point for each dwelling shall be installed and retained thereafter for use by the occupants of the site.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Schedule 2, Part 1, Classes A, B and E shall be undertaken without the prior written agreement of the Local Planning Authority.
