



Appeal Decision

Site visit made on 11 October 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2023

Appeal Ref: APP/J1535/W/22/3311461

Land adjacent to 167, The Dale, Waltham Abbey EN9 1UB

- 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 Paul Rayden on behalf of Treeview Trading Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/1516/22, dated 30 June 2022, was refused by notice dated 26 September 2022.
 - The development proposed is described as "building a two stories residential building containing 2 flats. A 2B4P for the ground floor and a 2B3P for the first floor. There aren't any existing buildings on site. The proposal arranges its floor plan layout and footprint in a way that gives enough privacy for both flats, gives a communal frontage area with independent flat accesses and still keeping the open grass frontage on the street scene. The proposal keeps the main mature trees on site except for two C1 classified trees, and proposes the planting of a new tree."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address from the appeal form in the banner heading above, as it more accurately describes the location of the proposal.
3. Since the application was refused by the Council, the Epping Forest District Local Plan 2011-2033 (2023) (Local Plan 2023) was adopted on 6 March 2023. It replaces the saved policies of the Epping Forest District Local Plan (1998) and Local Plan Alterations (2006) referred to in the Council's reasons for refusal. It is mandatory for me to take account of the most relevant and up to date information in reaching a decision. I have therefore assessed the appeal against the policies in the Local Plan 2023. The Council and the appellant have had an opportunity to comment on the relevant policies contained in the Local Plan 2023 and therefore neither party would be prejudiced by me determining the appeal on this basis.

Main Issues

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Character and Appearance

5. The appeal site is located within a larger group of semi-detached and terraced houses, and purpose-built blocks of flats, set on moderate sized plots, accessed

via a circular main road known as Roundhills. While the form and features of the houses and buildings vary, there are distinct groups that have a large degree of uniformity. Across the wider area there are regular grass verges and incidental green open spaces, which give it a spacious and green character.

6. The appeal site forms part of an incidental green open space, located adjacent to Roundhills, The Dale and a row of garages accessed from The Dale. The open space follows the slope of the highway, with the land falling away from The Dale, and contains two fairly large trees. While it may be that the appeal site does not relate to specific dwellings or have a formal function, in its current form it makes a positive contribution to the spacious and green character of the wider area. Moreover, there is no substantive evidence before me to suggest that it is not used by neighbouring residents. Also, from my observations on site, the limited vehicle speeds and movements along The Dale do not render the space unsafe to use. While these observations were a snapshot in time, there is nothing before me to indicate they were untypical.
7. The proposal would inevitably result in built form where there is currently open green space, which would erode the spacious and green character of the wider area. The proposed building would have a contemporary appearance, which would include some of the characteristics of the built form in the surrounding area. However, it would not fully reflect the appearance of any of the adjacent groups of houses or buildings. While it would have a simple form and would be two-storeys, like many of the surrounding houses, its modern and unique roof form above the elevation containing the front access to the first floor flat, would make it appear taller and dominant in the street scene. It would also have a limited sized plot and would be positioned very close to the adjacent row of garages and one of the existing large trees, which, together with the height created by the roof form, would make the proposed building appear incongruous and confined in its surroundings.
8. Overall, the harm resulting from the loss of part of the existing open green space would be moderated to a degree by the retention of the remaining part of the space that would continue to contribute to the open and green character of the area. Nevertheless, despite the proposed landscaping scheme, the cramped appearance of the proposed building would harm the open character. Also, the distinctive appearance of the proposed building would be visually intrusive and would not be in keeping with the uniformity of the surrounding groups of houses and buildings. Accordingly, the proposal would significantly harm the character and appearance of the area. It would conflict with Policy DM9 of the Local Plan 2023, which seeks to ensure all new development achieves a high quality design and contributes to the distinctive character and amenity of the local area. It would also conflict with the similar provisions of the National Planning Policy Framework (Framework).

Other Matters

9. The Council also refused permission on the basis that the proposal would be detrimental to highway safety, with particular regard to a Stopping Up Order, and that in the absence of a completed Section 106 planning obligation, the proposal would result in adverse effects to the integrity of the Epping Forest Special Area of Conservation (EFSAC).
10. In terms of highway safety, I understand that the Highway Authority are concerned that a draft Stopping Up Order relating to the entire appeal site

would restrict access to highway equipment and assets for maintenance purposes. Nevertheless, the grant of planning permission does not in itself authorise the Stopping Up of the highway. This is a matter that is considered under a separate process and different legislation. Given I am dismissing the appeal due to the harm of the proposal on the character and appearance of the area, I therefore do not need to consider this issue further.

11. There is no dispute between the parties that financial contributions would be required to mitigate recreational pressure and air quality impacts on the EFSAC resulting from the proposal. As part of the appeal, I have a signed unilateral undertaking before me to secure the required financial contributions. While I have some concerns regarding its execution, given I am dismissing the appeal due to the harm of the proposal on the character and appearance of the area, no pathways to significant likely effects on the EFSAC would arise from my decision. I therefore do not need to consider this issue further.

Conclusion and Planning Balance

12. The most recent Housing Delivery Test data for the District indicates that the delivery of housing was substantially below the housing requirement over the previous three years at 35%. Given this, and on the assumption that paragraph 182 of the Framework is not relevant, it would seem that, despite the adoption of the Local Plan 2023 and the Council's current housing land supply position, paragraph 11d) of the Framework still falls to be considered (by virtue of Footnote 8 of the Framework).
13. The proposal would make a small contribution towards the District's housing supply and the Government's objective of significantly boosting the supply of new homes. The provision of two flats in an accessible location weighs in favour of the proposal. I appreciate that the Council now have a five year supply of deliverable housing sites, which should help to address the past under delivery in the next five years. Nonetheless, when factoring in the significant shortfall in delivery, the provision of the two flats attracts moderate and meaningful weight as a scheme benefit. The proposal would also have modest social and economic benefits resulting from its construction and subsequent occupation.
14. Against these benefits is the significant harm that would be caused to the character and appearance of the area. The proposal would conflict with Policy DM9 of the Local Plan 2023 and the development plan, as a whole.
15. Policy DM9 of the Local Plan 2023 is broadly consistent with the Framework's aim to create high quality, beautiful and sustainable buildings and places by, among other things, being sympathetic to local character and history, including the surrounding built environment. This is considered fundamental to what the planning and development process should achieve, and paragraph 134 of the Framework advises that development that is not well designed should be refused.
16. Accordingly, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. Therefore, even if paragraph 182 of the Framework is not relevant, this is not a material consideration that indicates the proposal should be permitted.

17. For the reasons above, having had regard to the development plan as a whole and all relevant material considerations, I conclude that the appeal should be dismissed.

Hannah Guest

INSPECTOR