



Appeal Decision

Site visit made on 3 July 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Appeal Ref: APP/J1535/W/22/3309160

172 Manor Road, Chigwell IG7 5PX

- 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 S Powell against the decision of Epping Forest District Council.
 - The application Ref EPF/2787/21, dated 21 November 2021, was refused by notice dated 11 July 2022.
 - The development proposed is described as extension to form x2 no. additional apartments, with associated parking, cycles, refuse and landscaping with access taken from Mount Pleasant Road.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 27 September 2023.

Decision

1. The appeal is allowed and planning permission is granted for an extension to form x2 no. additional apartments, with associated parking, cycles, refuse and landscaping with access taken from Mount Pleasant Road at 172 Manor Road, Chigwell, IG7 5PX in accordance with the terms of the application, Ref EPF/2787/21, dated 21 November 2021, subject to the conditions contained in the attached schedule.

Preliminary Matters

2. The Epping Forest District Local Plan 2011 to 2033 was adopted by the Council on 6 March 2023. This has replaced the Epping Forest District Local Plan (1998) and the Epping Forest District Local Plan Alterations (2006). The Council confirmed that the relevant policies for the appeal are DM2, DM9, DM10, DM22 and T1. I have therefore determined the appeal having regard to these policies. The appellant was given the opportunity to comment on the new policies.

Main Issues

3. The main issues are 1) the effect of the proposal on the character and appearance of the area, 2) the effect of the development on the living conditions of existing and future occupants of the appeal site with regard to the provision of outside amenity space, 3) whether sufficient car parking would be available and, if not, the effect of the proposal on highway safety, and 4) the effect of the proposal on the integrity of the Epping Forest Special Area of Conservation.

Reasons

Character and appearance

4. The appeal property is a detached, purpose-built residential block comprising of two storeys and a basement level resulting in accommodation over three floors. It is located on the corner junction of Manor Road and Mount Pleasant Road in a predominantly residential area.
5. Manor Road contains a wide range of residential property styles of different designs, including some blocks of flats and individual dwellings. Mount Pleasant Road primarily contains two storey detached and semi-detached properties.
6. The appeal property forms an 'L' shape which fronts onto both Manor Road and Mount Pleasant Road. Access is taken from Mount Pleasant Road and leads to a parking area on the Manor Road frontage. The remainder of the site is given over to providing amenity space for the occupants of the appeal property.
7. The proposed development would involve the construction of an extension to the Mount Pleasant Road elevation of the building. It would provide an additional two apartments. Like in the existing building, this would be provided over three floors, with one of those being in the basement level.
8. The extension would be of a similar design and appearance to the main part of the existing building and matching materials would be used. A crown roof would be used which would result in the extension appearing subordinate to the main part of the building.
9. Although the extension would bring the building further towards the distinctly different residential properties of Mount Pleasant Road, it would clearly be seen in conjunction with, and as an extension to, the existing block. A reasonable degree of separation would remain from the residential properties of Mount Pleasant Road so that each would remain legible and distinctive in the street-scene.
10. For these collective reasons, the proposed extension would not cause harm to the character and appearance of the area. It would comply with Policies DM9 and DM10 of the Epping Forest District Local Plan (2023) which require, amongst other things, that development achieves a high-quality design, relating positively to its context having regard to form, scale, massing, and materials.

Living conditions – existing and future occupants

11. The proposed extension would be constructed on part of the appeal site that is currently used as communal outdoor amenity space.
12. I observed on my site visit that the outdoor areas were not of a particularly high quality in terms of landscaping. The submission includes a landscaping proposals and planting plan that would significantly improve the amenity space for both existing and future occupants. The implementation and maintenance of the landscaping could be secured by an appropriately worded planning condition were the appeal to be allowed.
13. In terms of the size of the amenity space, the proposed development would reduce its size overall. The Council Officer's report to the planning committee sets out that whilst it would reduce the overall area, 230m² would remain which would meet the policy requirement.

14. In refusing the application, the Council have not referred to any policies which require a minimum amount of private amenity space to be provided. Although the proposed development would result in the loss of amenity space, a reasonably sized, useable, and much-improved area of amenity space would remain/be provided for use by both existing occupants and future occupants of the appeal site.
15. The proposed development would therefore not have an unacceptable impact on the living conditions of existing occupants in terms of amenity space and would provide acceptable amenity space for future occupants. The proposed development would therefore comply with Policies DM9 and DM10 of the Epping Forest District Local Plan (2023) which require, amongst other things, that development proposals must have integrated landscaping providing enhanced green infrastructure having regard to the wellbeing of users including the provision of amenity space.

Parking provision and highway safety

16. The Council consider that the proposed development would result in insufficient parking provision to serve the proposed development as well as the existing property on the site.
17. The evidence sets out that there are currently 7no. parking spaces on the site to serve the existing 6no. flats. The proposed development would provide a further two flats and an additional two parking spaces resulting in a total of 9no. parking spaces to serve 8no. flats.
18. The Council Officer's report to the planning committee sets out that the parking provision is acceptable and in line with transport policies. I am also not aware of any objections being received to the proposal from the highway authority.
19. The appellant has drawn my attention to the supporting text of the local plan in terms of parking which outlines that until such time as parking standards are adopted, the Council will regard Essex County Council's adopted Parking Standards as the starting point and will appraise proposals on a case-by-case basis to assess that the level of parking is commensurate to the development proposed. This will include consideration of the scale and type of development, the sustainability of its location (including access to sustainable transport modes and access to services). Where practicable and for sites within 400 metres of a London Underground Station, the Council will seek reduced parking provision, including car free development.
20. The appellant highlights the fact that the appeal site is in close proximity (less than 400 metres) to Grange Hill Station, which is served by London Underground. I observed this proximity and the convenience of the walk between the station and the appeal site on my site visit. In addition, I observed that there are bus stops located on both sides of the road in front of the appeal site on Manor Road and that the site is close to a small parade of shops and local services. While I accept that my site visit was only a snapshot in time, I nonetheless also observed that whilst there was some on street parking occurring on Mount Pleasant Road, there was some spare on-street car parking capacity including opposite the appeal site.
21. Therefore, having regard to the scale and type of development, the quantum of off-street car parking spaces proposed, the proximity of the site to an

underground station and bus stops, and the availability of on-street parking, I find that the evidence supports a finding that car parking availability would be acceptable. Given this conclusion, there is no credible or objective evidence before me to indicate that the proposal would have an unacceptable impact on highway safety. The development would therefore comply with Policy T1 of the Epping Forest District Local Plan (2023) which requires that development provides appropriate parking and does not result in a cumulative severe impact on the operation of the local highway network, or compromise highway safety.

Epping Forest Special Area of Conservation

22. The evidence before me indicates that the site is located within the zone of influence for the Epping Forest Special Area of Conservation (SAC) which is a European protected site. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) requires the Competent Authority to ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of European designated sites.
23. The supporting text to Policy DM2 of the Epping Forest District Local Plan (2023) states that the SAC has particular importance as a bird habitat and was identified primarily for its value in respect of beech trees, wet and dry heaths, and its population of stag beetle. It also states that the SAC is currently assessed as being of 'unfavourable conservation status', in part because of the effects of air-borne pollutants, including from traffic.
24. In its Local Plan Habitats Regulations Assessment (HRA), the Council has identified two pathways from residential development that may lead to significant adverse effects on the SAC. The pathways are Air Quality, as a result of emissions from more people driving vehicles within and in the vicinity of the SAC; and, Recreational Pressures, as a result of more people using the SAC for recreational purposes such as walking.
25. The proposed development would create an additional two dwellings within the zone of influence. Occupants of these dwellings would create additional recreational pressures on the SAC. There would also be an increase in traffic using the road network through the SAC and an increase in emissions as a result. I find that the evidence is that in combination with other projects the proposal would likely have significant environmental effects on the European protected site.
26. Owing to recreational pressure on the SAC and likely pollution arising from the use of vehicles when visiting the SAC, I find that the development would have an adverse effect on the integrity of the SAC.
27. Policy DM2 sets out that in designing mitigation measures, regard should be had to the Air Pollution Mitigation Strategy for the Epping Forest, the District's Green Infrastructure Strategy and Epping Forest Strategic Access Management and Monitoring Strategy (SAMMs). Contributions towards off-site measures to mitigate the likely impacts on air pollution and adverse recreational effects arising from a development will be sought where these are necessary to make the development acceptable, are directly related to the development and are fairly and reasonably related in scale to the development.

28. The Council have set out that in terms of the recreational pressures that would result, using their Interim Approach, which takes a proportionate approach to the securing of such contributions, this approach only seeks contributions for new homes within 3 kilometres of the SAC. As the appeal site lies more than 3 kilometres from the boundary of the SAC, the Council have set out that in this instance there is no requirement to make a financial contribution. Therefore, adopting this strategic approach, the Council are satisfied that the development would not have an adverse impact on the integrity of the SAC. I have no reason to disagree with the Council's assessment.
29. In the overarching standard advice for development applications within Epping Forest District, Natural England state that they support the SAMM Strategy and the collection of a SAMMs contribution from development. They also state that air quality should not be considered an impediment to the determination of applications provided that the mitigation detailed in the Air Pollution Mitigation Strategy is considered secured and certain to proceed. Given the standing advice from Natural England a direct consultation with them has not been necessary in this case.
30. In terms of Air Pollution, the Council has developed an Interim Air Pollution Mitigation Strategy (IAMPS) which sets out a strategic approach to mitigating air quality impacts on the SAC through securing appropriate contributions. These would be applicable to the proposed development and the Council have commented that through securing such measures, the proposed development would not have an adverse impact on the integrity of the SAC.
31. The appellant has submitted with the appeal a completed Unilateral Undertaking (UU) to provide the appropriate contributions in terms of mitigating the air quality impacts on the SAC.
32. I am satisfied that the planning obligations contained within the UU are necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. They meet the tests set out within Regulation 122 of the Community Infrastructure Levy Regulations 2010 and Framework paragraph 57.
33. The contributions would address any adverse effects associated with the proposed development and in respect of the development proposal would ensure that the integrity of the SAC was not harmed. In this regard, the development would therefore accord with the conservation requirements of the Habitats Regulations, and Policies DM2 and DM22 of the Epping Forest District Local Plan (2023). Collectively, these policies permit development only where it is possible to conclude there is no adverse effect on the integrity of the SAC, alone or in combination with other plans or projects, and require consideration of air pollution risks and adequate mitigation to ensure sensitive receptors are not adversely impacted.

Other Matters

34. I note the objections that were received in relation to the impact of the proposed development on the living conditions of existing residents of surrounding properties in relation to the visual impact of the development and overlooking. Due to the size, scale, siting and design of the proposed development relative to the position of surrounding properties, there would not

be unacceptable harm caused to the living conditions of occupants of surrounding residential properties.

35. There is no substantive evidence that there is a lack of places for children in neighbouring schools or that such a deficiency would be worsened by the proposed development.
36. While the proposal would result in the loss of some trees, this would not in itself cause significant harm to the character or appearance of the area.
37. The maintenance of the existing property, or alleged lack of such, would not be a reason to withhold granting planning permission.
38. There is no substantive evidence that the proposed development would result in an increase in crime, nor is there any substantive evidence that it would result in unacceptable levels of noise, increase flooding or cause harm due to rats and/or rubbish.
39. Concerns relating to service charges and possible disputes between leaseholders and freeholders are not material planning considerations. These are not matters that alter or outweigh my conclusions.

Conditions

40. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of certainty.
41. In the interests of the character and appearance of the area, a condition is necessary in relation to the protection of retained trees. It is necessary that tree protection measures are approved and installed prior to commencement of development to ensure the protection of landscape features for the duration of the construction phase.
42. In the interests of ensuring good design, conditions are necessary relating to the use of matching materials, details of hard and soft landscaping, removal of excavated material, and replacement of trees if necessary.
43. In the interests of achieving a sustainable form of development, conditions relating to water efficiency and the implementation of a residential travel plan are necessary. It is not necessary to impose a condition requiring the installation of electric vehicle charging points as this is covered by other legislation¹.
44. In the interests of living conditions, conditions in relation to the installation of obscure windows in the first floor and a restriction on the hours of construction are necessary.
45. I have also, in the interests of securing high quality communications, imposed a condition requiring the installation of super-fast broadband to the proposed dwellings. I have also imposed a condition in relation to land contamination. This is in the interests of public safety.

¹ Building Regulations 2010 Approved Document S, 2021 edition

Conclusion

46. I have found that harm would not be caused to the character and appearance of the area, the living conditions of existing or future occupants, and highway safety. The development would also provide the necessary mitigation measures to ensure that there would be no adverse harm caused to the integrity of the SAC.
47. For the reasons set out above, and having had regard to all other matters raised, I therefore conclude that the appeal should be allowed.

A M Nilsson

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: Proposed Extension, Drawing Number - CFA/FULL/01.
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 4) Prior to any above ground works, full details of both hard and soft landscape works (including tree planting), an implementation programme (linked to the development schedule) and a maintenance schedule, 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. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. 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 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 planted at the same place. All elements

- of landscaping shall thereafter be maintained in accordance with the approved maintenance schedule.
- 5) Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the local planning authority. The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy.
 - 6) Prior to first occupation of the extension hereby permitted the window in the north facing elevation at first floor level, shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of that window 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. Once installed the obscure glass shall be retained thereafter.
 - 7) 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.
 - 8) Prior to the first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel information Pack for sustainable transport, to be first approved in writing by the local planning authority, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.
 - 9) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those in the existing building.
 - 10) All material excavated from the below ground works hereby approved shall be removed from the site.
 - 11) 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 planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
 - 12) The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development

works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the local planning authority contacted and a scheme to investigate the risks and/or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. In such instances, following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.

- 13) No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

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