



Appeal Decision

Site visit made on 14 November 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2024

Appeal Ref: APP/J1535/W/23/3318824

**Rowlands, Bournebridge Lane, Stapleford Abbots, Romford, Essex
RM4 1LT**

- 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 Vimal Pokar of Jayan Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/1647/22, dated 13 July 2022, was refused by notice dated 26 January 2023.
 - The development proposed is the demolition of existing dwelling and erection of two detached houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Epping Forest District Local Plan 2011-2033, Part One ('the LP') was adopted in March 2023. The LP replaces Epping Forest District Council Adopted Local Plan (1998) and Alterations (2006), and the Council have advised that Policies H1, DM2 and DM22 have superseded Policies H4, CP1 and CP6 referred to in the decision notice. It is mandatory for me to take account of the most relevant and up-to-date information in reaching a decision and I have therefore dealt with the appeal on this basis. The main parties have commented on the relevant policies contained in the LP and have therefore not been prejudiced.
3. The Council's first reason for refusal within the decision notice refers to part (F) of Policy H1 of the Local Plan Submission Version 2017. Amendments were made to this policy before adoption of the LP and therefore the section relevant to the appeal proposal is now part (E).
4. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
5. Since the determination of the planning application, the appellant has submitted a Unilateral Undertaking ('UU') in response to the Council's second reason for refusal. Additionally, at the time of my site visit, the existing bungalow was being extensively redeveloped both internally and externally. Accordingly, I have determined the appeal on the basis of these matters.

Main Issue

6. The main issue is the effect of the proposal on the district's mix of housing.

Reasons

7. Policy H1 of the LP concerns housing mix and accommodation types and criterion (E) states that the loss of bungalows and specialist accommodation will be resisted. The supporting text to the policy outlines that the needs of those with accessibility requirements, including older people, can be supported by bungalow accommodation; there has been a gradual erosion of the district's existing stock of bungalows; and bungalows play an important role because of their potential ease of adaption such that they can provide choice for people with accessibility requirements, including the current and future needs of older people.
8. 'Bungalow' is defined within Appendix 1: Glossary of the LP as "*A house having only one storey. A bungalow can have accommodation in the roof-space served by accompanying roof-lights and dormer windows. This means that converting the loft of the existing roof to form additional internal accommodation does not result in the loss of that bungalow*". The appeal property is single storey with accommodation within its roof space served by dormer windows and roof lights. Therefore, it would meet the Council's definition of a bungalow for the purposes of LP Policy H1(E). The proposal would result in the demolition of the existing dwelling and the construction of two detached, two-storey dwellings. Consequently, the proposal would result in the loss of a bungalow and would conflict with LP Policy H1(E).
9. The appellant asserts that the existing dwelling is unsuitable for people who may have accessibility requirements due to the gradient of the front and rear gardens, the large plot size, lack of level access, and that it would be unviable to upgrade the existing dwelling. This undermines what I witnessed during my site visit whereby a comprehensive scheme of remodelling both internally and externally was being undertaken. Amongst other things, level access onto a large patio area had been created into the rear garden with limited steps to access the lawn; a significant proportion of the ground floor internal walls had been removed; and the dwelling had been re-roofed and rendered. From my observations on site, I am not convinced that the front garden could not be remodelled to provide level access into the dwelling, or that the internal space could not be partitioned to enable occupation by those who may have accessibility requirements. Furthermore, it is not uncommon for bungalows to be set within large plots, and the landscaping I witnessed would require limited maintenance.
10. The appellant has directed me to two previous planning approvals¹ whereby a dwelling was not considered to comprise a bungalow due to the presence of first floor accommodation and consequently, did not result in the loss of a bungalow. However, these approvals pre-date the current LP and the appellant acknowledges 'bungalow' was not defined within the previous Local Plan. These examples are therefore not directly relevant to the appeal proposal. I have also been directed to a further planning application² but, other than the planning reference, I have not been provided with any further evidence. However, the reference number suggests that the decision would likely pre-date the LP.
11. I have been directed to the adjacent site which was granted permission for the demolition of an existing chalet bungalow and the erection of two, two-storey

¹ Planning Refs EPF/2014/21 and EPF/2378/20

² Planning Ref EPF/2806/18

dwellings³. The appellant states that it was granted in August 2016 when emerging Policy H1 had been written. However, the information before me suggests that the consultation on the draft local plan began in October 2016 and therefore, the neighbouring site's planning application was determined when the LP was at a very early stage of production. Consequently, it is likely that limited weight would have been afforded to Policy H1 at the time and therefore, this example is not directly comparable to the appeal proposal.

12. In reference to the main issue, the proposed development would have an adverse effect on the mix of housing in the district and would conflict with Policy H1(E) of the LP, the content of which I have detailed above. It would also conflict with paragraph 63 of the National Planning Policy Framework ('the Framework') that seeks to ensure the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

Other Matters

13. The proposal would result in the construction of one additional house sited within proximity to services and facilities; would involve the re-use of previously developed land; would contribute to the Council's housing delivery; and future occupiers would likely utilise the area's existing services and facilities thereby enhancing the vitality and viability of Stapleford. However, the benefit of one dwelling in this regard would be relatively modest.
14. The works undertaken to the existing dwelling have upgraded its appearance when compared to the submitted photographs. Its appearance reflects the appearance of the street, and it is not in a semi-derelict state or poor condition as asserted by the appellant. Once complete, the dwelling would contribute to the district's housing stock.
15. At the time of my site visit, the first floor door within the rear dormer window had been replaced with a window. Consequently, the occupiers of the existing dwelling would not have access to the flat roofed rear extension. There could be some improvement to the living conditions of the occupiers of the neighbouring dwelling ('Eden') from the loss of the side facing dormer window within the existing dwelling. However, any benefit would be minimal due to the window's distance from the shared boundary.
16. The appellant asserts that the proposal would increase the mix of dwellings in the district; that it would not disrupt the balance of housing mix in this location; and that there is considerable local need for family housing in the area. However, no evidence has been submitted to support these assertions. I acknowledge that there are several existing single storey bungalows within the street that have smaller and level sites. However, this would not outweigh the policy's requirement to retain existing bungalows.
17. The appellant asserts that the proposed dwellings would have a similar configuration as the existing dwelling with one bedroom and a bathroom/shower room to the ground floor and three/four bedrooms to the first floor. However, the proposed dwellings would not meet the definition of a bungalow. While the existing bungalow would not result in the loss of a small

³ Planning Ref EPF/0363/16

house, the policy is not concerned with the size of the bungalow to be lost. Instead, it is concerned with the loss of bungalows which are easily adaptable.

18. It has been put to me that the proposed dwellings would be constructed to meet new thermal performance standards and Part M of Building Regulations. However, all new dwellings are required to meet these standards and therefore this is a neutral matter. Furthermore, it is likely that the works being undertaken to the existing bungalow could also meet these requirements.
19. The information before me suggests that the proposal would not harm the living conditions of neighbouring properties, it would adhere to the character and appearance of the street, it would not raise any highway issues, and it would comply with various other policies contained within the LP and the Framework in respect of design. However, these are neutral matters. I acknowledge that the appeal site is not within a Conservation Area nor is the existing dwelling listed. However, these matters would not outweigh the proposal's non-compliance with LP Policy H1(E).
20. The Council operates a Strategy⁴ for the protection of the Epping Forest Special Area of Conservation from air pollution, which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended. The Strategy indicates that mitigation should be secured by a planning obligation and the appellant has submitted a UU to secure the necessary financial contributions. However, the UU includes financial contributions that the Council has not indicated are required. Furthermore, I have concerns about the document itself, its execution and thus whether the Council could rely on it to secure the contributions as the signatures of the two directors have not been witnessed, and Kensington Mortgage Company Limited is listed as a mortgagee but they have not signed the UU.
21. As I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties. Nonetheless, as it stands, I am not satisfied that the submitted UU would secure the required air pollution mitigation measures arising from the development in accordance with LP Policy DM2 and the Strategy. Notwithstanding the submission of the UU, the appellant has stated that the planning obligation could be conditional should the appeal be allowed. However, the Planning Practice Guidance does not advocate the use of a condition in such circumstances.

Conclusion

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

A Berry

INSPECTOR

⁴ Epping Forest Interim Air Pollution Mitigation Strategy: Managing the Effects of Air Pollution on the Epping Forest Special Area of Conservation, adopted December 2020