



Appeal Decision

Site visit made on 3 January 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2024

Appeal Ref: APP/J1535/W/23/3327230

88 Manor Road, Chigwell, Essex, IG7 5PQ

- 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 & Mrs Crouch against the decision of Epping Forest District Council.
 - The application Ref EPF/0937/23, dated 25 April 2023, was refused by notice dated 21 June 2023.
 - The development proposed is the demolition of the existing dwelling and construction of a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and construction of a replacement dwelling at 88 Manor Road, Chigwell, Essex IG7 5PQ in accordance with the terms of the application, Ref EPF/0937/23, dated 25 April 2023, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 which is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few notable changes albeit that the numbering of paragraphs has changed. Furthermore, the main parties were given an opportunity to comment on the revised Framework during the appeal. Hence, I am satisfied that no one would be prejudiced by this change to the national policy context.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area, and;
 - The living conditions of the occupants of 86 and 90 Manor Road having particular regard to outlook and privacy.

Reasons

Character and appearance

4. Manor Road is an established residential area comprising of large, detached houses, mostly 2-3 storeys high, set within generous rectangular plots. The varying appearance, form and materials expressed in individual houses forms a strong part of the identity of the area. Architectural styling includes Arts and

Crafts and classical influences amongst others. Furthermore, many properties have undergone extension, remodelling or in some cases rebuilding.

Nevertheless, coherence is derived from the settlement pattern that underpins the street scene whereby dwellings are deliberately aligned and set back within broadly regular plots. Furthermore, houses present their principal elevation towards the road behind a clear frontage treatment. These factors result in a distinctive suburban character and appearance.

5. The detached appeal property observes the underlying settlement configuration as it aligns with properties either side and faces Manor Road. It has a loosely L shaped footprint, steeply pitched gabled front, tall chimney and materials redolent of the Arts and Crafts movement. The property has undergone various alterations and extensions over time. Hence, whilst not architecturally remarkable, it reinforces the prevailing settlement pattern and individuality of the street scene.
6. The appeal proposal would demolish the present dwelling and replace it with a detached red brick dwelling with a squarer footprint that would incorporate a basement. The dwelling would take a different form to the existing house, with classical influences evident in the front and side elevations but a more contemporary appearance at the rear. The principal elevation would be symmetrical, with the focus of the design around a central slightly projecting section of the building with a pediment and grand porch. The use of sash windows, stone dressings and a roof parapet would further emphasise the classical motif.
7. Hence, the most public elevation would have a considered and balanced design. This would integrate reasonably comfortably within the street scene given the varied architecture, which includes several other examples of classically interpreted dwellings nearby¹.
8. The larger footprint and projecting central section would give the dwelling a more direct presence in the street in comparison to the existing dwelling. Furthermore, as highlighted by the Council, comparatively the structure would have a greater volume of built form at upper levels. Nevertheless, it does not follow that this would necessarily be detrimental to the street scene.
9. My observations of the properties along Manor Road were that, although detached, built form tends to span most of the width of plots such that the size of gaps between individual properties is limited. Moreover, although from the road there is a clearly discernible building line and upper height of built form, it is not rigidly uniform. Hence, there is a margin of tolerance whereby various architectural porches and projections are accommodated without detracting from the continuity of the underlying settlement pattern. The positioning and treatment of the proposed front elevation in the appeal scheme would fall within that margin.
10. The arrangement of the proposed dwelling within the plot, its set back, overall height and orientation relative to the road would all adhere to the characteristics identified that contribute to defining the character and appearance of the area. The dwelling would also be inset from the side boundaries thereby keeping a discernible gap with the flanking properties and in turn signalling them as separate entities. This would be sufficient to prevent

¹ For example nos. 102, 106, 59 and 63 Manor Road

the development from appearing cramped and would avoid the terracing affect that the parish council² cautions against.

11. The Council also refers to a rear building line. However, my observations from Manor Road were that the existence or otherwise of a rear building line is not an important defining feature of the street scene. Although the proposed dwelling would extend deeper into the plot than the present dwelling, it would not be to such an extent that it would undermine the prevailing settlement pattern. Neither would it be obviously apparent from the road. The prevalence of sizeable rear extensions and outbuildings at other nearby properties reinforces my findings on this point.
12. Accordingly, I find that the proposal would be well grounded in the locality by respecting the established settlement pattern whilst also contributing towards the individuality of house types. It follows that it would not harm the character and appearance of the area. Therefore, I find no conflict with policy DM9 of the Epping Forest District Local Plan 2011-2033, Part One, March 2023 (LP) which amongst other matters requires development to achieve a high quality of design that draws upon local character and relates positively to its context.

Living conditions

13. Policy DM9(I) of the LP states that development proposals must take account of the privacy and amenity of neighbours. Sub-section (iii) of the policy seeks to avoid overlooking and loss of privacy detrimental to living conditions, whereas sub-section (iv) states proposals should not result in an overbearing form of development which materially impacts on the outlook of neighbours.
14. The Council contends that the proposed first floor rear balcony would be detrimental to the privacy of the occupants at 86 and 90 Manor Road. It further considers that the proposal would have an overbearing impact on those neighbours.
15. The appeal property already has a first floor rear balcony, as do other properties along the north side of Manor Road, including the adjacent property at no.86. At my site visit I was able to see the view from the balconies at the appeal site and no.86. It was clear that a considerable degree of overlooking to rear gardens from balconies forms part of the established living conditions. To a degree this is illustrated in photographic evidence submitted as part of representations received in response to the planning application, which shows side views from the balcony at no.86.
16. The proposed balcony would be inset from both side boundaries which would limit the potential for immediate overlooking to the rear gardens of the properties either side. Nevertheless, because the proposed balcony would be set deeper into the plot, it would align with garden areas that lie close to the rear of the houses at nos.86 and 90. These are areas which could be used more intensively owing to their proximity to the respective houses. However, if solid or obscure screening were introduced to the sides of the balcony this would sufficiently mitigate against intrusive side views, thereby safeguarding a reasonable degree of privacy in this context.
17. Suitable screening measures could be secured by a planning condition. I am mindful that paragraph 55 of the Framework encourages the consideration of

² Consultation response from Chigwell Parish Council

whether otherwise unacceptable development could be made acceptable through the use of conditions.

18. As previously mentioned, the proposed dwelling would extend further into the appeal site such that a section of the structure would extend beyond the main rear façades of nos 86 and 90. Although this would be stepped in height, a notable proportion of it would be two storey with roof accommodation. As such, it would be visible to the occupants either side from some rear facing windows and noticeable when in their rear gardens. However, it does not necessarily follow that it would be harmfully overbearing. To my mind, such development indicates an overpowering or dominant effect on outlook and/or would result in an unreasonably confining sense of enclosure.
19. In this case each flanking property is set within generous grounds with the respective rear elevation of each dwelling oriented across the width of the plot primarily facing their own rear garden. Within such a configuration, the rear projection of the proposed dwelling at the appeal site would constitute a limited part of their respective outlooks from windows in the rear elevations. Consequently, it would feature in oblique side views rather than have a dominant effect.
20. Furthermore, the full height projection would extend for a relatively limited length and would be inset such that it would not lie directly adjacent to either side boundary. Consequently, for the most part, the main rear outlook of nos. 86 and 90 and their respective side boundary with the appeal site would remain unchanged.
21. In addition, both flanking properties have existing built form that extends into their respective plots which has some relevance to my determination. At no.90 there is a single storey rear extension³. The evidence before me indicates a large ground floor family room served by significant glazed doors, most of which would face the rear garden at a point⁴ beyond the extent of the upper parts of the appeal proposal. The nearest ground floor window serves a store and would be less sensitive in terms of outlook.
22. No.86 has a sizable pool and gym building which extends a considerable way along the side boundary with the rear garden of no.88. The presence of this building reduces the sensitivity of the garden of no.86 to changes in outlook.
23. Reference is also made to the extent of the front building line. The dwelling would primarily sit between nos. 86 and 90 with the forward projection being comparatively modest. The arrangement would not sit so far forward of the flanking properties such that it would be likely to have any adverse impact upon their front outlooks and I have not seen substantive evidence to show otherwise.
24. Taking these factors together, I am satisfied that the proposed dwelling would avoid an overbearing or overly enclosing form of development that would materially impact on the outlook of the occupiers at either 86 or 90 Manor Road. Neither would it unreasonably interfere with the enjoyment of their respective garden space.

³ Planning reference EPF/2173/20, Appendix I, Appellant's Appeal Statement

⁴ Drawing no. 20C

25. As such, the proposed development would maintain a high standard of amenity for existing and future users in accordance with paragraph 135(f) of the Framework. It follows that I find no conflict with policy DM9 of the LP in this respect.

Other Matters

26. In making my determination I have had regard to the representations received. I have already addressed some points raised in my consideration of the main issues, but some additional matters were raised. These include concerns that the proposal would block light to nearby properties. Given the proposed orientation and separation distances between respective properties, the proposal would be unlikely to undermine the living conditions of other residents owing to unreasonable loss of light or shadowing. Little substantive evidence is before me to show to the contrary.
27. The Parish Council raise concerns regarding the proposed car lift and the potential for noise disturbance. They refer to the experience of London authorities where such equipment is more prevalent. The car lift would be close to the side boundary with no.86. In these circumstances, the suggestion of a condition to agree details of the car lift in relation to noise impact would be justifiable.
28. The Parish Council also consider the development would not go far enough towards meeting net zero targets. It is not shown that the proposal would fail to meet mandatory standards contained in the LP, and where they exist, that these could not be suitably addressed by planning conditions. Therefore, on the evidence before me, I am not persuaded these concerns would warrant the rejection of the appeal proposal.
29. It is brought to my attention that construction works have been on-going elsewhere in Manor Road, and that cumulatively these have been upsetting and frustrating for some residents. I accept that the construction process can sometimes result in disturbance and inconvenience, perhaps particularly so where a basement is involved. Nevertheless, such activity is normally of limited duration and would not of itself present a sound basis to prevent development. However, in these circumstances a planning condition to ensure appropriate construction management procedures are agreed could assist in limiting such impacts.
30. The Council refers to an ecology report which was submitted with the planning application which found the potential for bat roosts to be negligible. I have little reason to find otherwise and on that basis the absence of a bat survey would not represent a sound basis to resist the proposal.
31. Comments are made criticising other development within Manor Road which has been permitted by the Council. It is not within the scope of my determination to review those. I have taken account of other development insofar as it is relevant to the context of the appeal proposal.
32. It is asserted that the existing property at the appeal site has been poorly maintained and that the proposal would devalue property. These are not matters that I have attributed weight to as it is not explained how they are pertinent to the planning merits of the proposal.

33. Some concerns are expressed that drawing number 21B has a rear balcony annotated on the second floor and roof plan in addition to the first floor plan. Looking at the plans and elevations as a whole it is evident that the rear balcony pertains to, and would be accessed from, the first floor. I am satisfied that the plans are sufficiently clear in this respect.

Conditions

34. The Council have suggested 19 conditions, which I have considered against the tests in paragraph 56 of the Framework and relevant advice in the Planning Practice Guidance. Conditions specifying a period for commencement and the approved plans have been imposed for certainty.
35. Given the introduction of a basement, I accept it would be prudent to agree levels with the Council to ensure the development is consistent with the drawings approved. On that basis it is not necessary to have a separate condition requiring the removal of excavated material so as not to alter levels across the site.
36. To ensure the quality of the development, additional details of the external materials should be confirmed with the Council as the annotations on the drawings are somewhat generic.
37. In the interests of maintaining levels of privacy, it is necessary to ensure that side screening to the first floor rear balcony is agreed and installed prior to its first use. For similar reasons the first floor windows in the flank elevations serving bathrooms should be obscure glazed.
38. The development plan has specific policies to require that new homes have a good standard of digital connectivity, achieve specific accessibility standards for people with disabilities, in relation to water efficiency and the provision of electric vehicle charging points. Furthermore, there is a policy that requires development to deliver net biodiversity gain, which broadly aligns with national policy. Accordingly, conditions are imposed to secure those measures.
39. To protect existing trees and hedgerows on the site, it is reasonable to require the development to proceed in accordance with the arboricultural information provided. However, these generally relate to the boundary planting within an established domestic plot. I am therefore not persuaded that additional conditions to agree further landscaping details and requirements are necessary or proportionate in these circumstances.
40. As the development is for residential occupation and would involve the construction of a basement, a condition is imposed in the event of unexpected land contamination being found. This sets out the remediation procedure to ensure the site would be habitable in those circumstances.
41. A condition is suggested to require details of surface water drainage to be agreed. The evidence before me does not suggest that surface water is particularly problematic in the area, and the appeal site already accommodates a residential dwelling. Hence, I am not convinced this is necessary.
42. The Council have also suggested a condition to restrict permitted development rights normally afforded to householders under the Town and Country (General Permitted Development) Order 2015 (as amended). Paragraph 54 of the Framework states that such conditions should not be used unless there is a

clear justification to do so. The reasons given are generic concerns about the character and appearance of the area and living conditions of neighbours. I am not persuaded that these amount to the clear justification necessary and have therefore not imposed the condition.

43. Although not suggested by the Council, to reduce disturbance to nearby residents during the construction process it is necessary to agree a construction management plan. Logic dictates that to be effective this must be agreed prior to the commencement of construction.
44. Finally, as already mentioned, the Parish Council have suggested a condition in relation to likely noise levels from the proposed car lift. I agree such a condition would be justified but have simplified the wording to make it proportionate to the scale and nature of the development.

Conclusion

45. Planning law requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal would accord with the development plan. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

Helen O'Connor

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: Existing block and location plan, drawing no.01; Proposed basement and ground floor plans, drawing no.20C; Proposed first and second floor plans and street scene, drawing no.21B; Proposed elevations, drawing no.22A; Proposed visuals, drawing no.23 and Tree protection plan, drawing no. MP/88MR/01.
- 3) Prior to any above ground works, details of levels shall have been submitted to and approved by the local planning authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
- 4) Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to the first use of the first floor rear balcony, screening to the sides of the balcony area no lower than 1.7 metres high shall have been installed in accordance with details previously approved in writing with the local planning authority. Thereafter the screening shall be retained as approved.
- 6) Prior to first occupation of the dwelling hereby permitted the windows in the flank elevations at first floor level shall have been fitted with obscure glass with a minimum privacy level 3 obscurity, and no part of those windows 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 dwelling hereby permitted, the dwelling shall be provided with the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service.
- 8) The dwelling hereby permitted shall be built in accordance with Part M4 (2) of the Building Regulations.
- 9) Prior to first occupation of the dwelling hereby permitted, measures shall be incorporated to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 10) Prior to first occupation of the dwelling hereby permitted, at least one Electric Vehicle Charging Point shall be installed and retained thereafter for use by the occupants of the site.
- 11) Prior to first occupation of the dwelling hereby permitted, a scheme to enhance the ecological value of the site shall be submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in full prior to the first occupation of the dwelling, and so retained.

- 12) Tree protection shall be installed as shown on Moore Partners Ltd Tree Protection Plan Drawing No: MP/88MR/01 prior to the commencement of development activities (including any demolition). The methodology for development shall be undertaken in accordance with the accompanying Arboricultural Report and Impact Assessment.
- 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 14) Prior to the commencement of development, a construction management plan shall be submitted to and agreed in writing with the local planning authority. This shall include hours of construction and delivery, measures to control noise and dust, and vehicle management. Thereafter the development shall proceed in accordance with the approved details.
- 15) Prior to the first occupation of the dwelling hereby approved, details of external noise levels associated with the car lift, and any associated mitigation and maintenance measures shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out and maintained in accordance with the details so agreed.

END OF SCHEDULE OF CONDITIONS