



Appeal Decision

Site visit made on 20 February 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/J1535/W/23/3327150

Glenmead, Palmerston Road, Buckhurst Hill, Essex IG9 5NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Eldnam Ltd against the decision of Epping Forest District Council.
 - The application Ref is EPF/2635/22.
 - The development proposed is a single storey extension over part of the flat roof of the existing 3 storey building, to provide 5 additional one and two bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Class A of Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) establishes that new dwellinghouses on detached blocks of flats are permitted development subject to several restrictions and conditions. Paragraph A.2(1) of Part 20 Class A lists the matters for which prior approval must be sought before beginning the development.
3. Prior approval cases do not require regard to be had to the development plan. Nevertheless, the policies of the development plan are material considerations. In determining an application, the local planning authority must take any representations made into account. It must also have regard to the National Planning Policy Framework (the Framework) so far as relevant to the prior approval matters and as if the application were a planning application. The same approach will be taken in determining the appeal.
4. The Epping Forest District Local Plan 2011-2033 Part One (the LP) was adopted in March 2023 following the Council's decision on the application subject to the appeal. It replaced the policies of the Epping Forest District Local Plan – Adopted January 1998 (the 1998 Plan), that are referenced in the Council's decision notice. The policies of the 1998 Plan are no longer part of the development plan and have no weight in determining this appeal.
5. The main parties acknowledge in their submitted evidence the changes to the statutory development plan since the determination of the application subject to the appeal. As such, I am satisfied that my approach would not unfairly prejudice the main parties.

6. A revision to the Framework was published on 19 December 2023. The main parties have been given the opportunity to comment on the effect of the revised Framework for the appeal, and any comments received have been taken into account in reaching my decision.

Main Issues

7. There is no dispute that the proposal would accord with the criteria set out in Paragraph A.1 of Part 20 Class A, which establishes the limitations for development subject to prior approval.
8. Therefore, in accordance with Paragraph A.2(1) of Part 20 Class A of the GPDO, the main issues are whether prior approval should be granted having regard to:
 - the external appearance of the building; and
 - impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.

Reasons

External appearance

9. The appeal site is a 3-storey flat-roofed block of flats. The building is L-shaped and wraps around the corner of Palmerston Road and Westbury Road. Due to the sloping nature of the land, the external appearance of the building is of 3 adjoining blocks with a roofline stepping downward from the southwestern extent facing Palmerston Road, to the northeastern extent facing Westbury Road.
10. The proposal seeks to construct an additional floor to the building to provide 5 flats. The resulting 4-storey building would follow the current roofline, thereby retaining the current stepped appearance. The additional floor would be slightly set in from the southwestern and northeastern ends of the L-shaped building. The roof of the existing building would be utilised as two private terraces for the end units. The other new units would each be served by smaller private terraces facing the car park and gardens to the rear.
11. The existing building is of unremarkable appearance. Nevertheless, it occupies a prominent corner location and makes an important contribution to the streetscene and the wider character of the area, appearing proportionate alongside neighbouring development. Given the prominent location and increased scale, the proposal has the potential to enhance the building's status as a landmark feature or focal point. However, such an approach must ensure it appears compatible with its surroundings.
12. Buildings in the area display a reasonable variation in architectural style and scale, although those in the immediate vicinity of the site are generally no taller than 3 storeys. Some 4-storey buildings exist, but those cited in the submitted evidence are not closely related to the appeal site. They also occupy sites with distinctly different characteristics, being set between neighbouring buildings rather than on a highly exposed corner.
13. The buildings directly adjacent to the appeal site on both the Palmerston Road and Westbury Road frontages are 2-storey properties with pitched roofs. The appeal site sits on lower ground than the adjacent buildings to the west on Palmerston Road. Taking account of the topography and the pitched roof of the

adjacent building, it currently appears of broadly comparable height in the streetscene. However, the additional massing of the proposal would extend above the neighbouring property, and the resulting relationship would appear disproportionate and dominant.

14. When viewed as part of the Westbury Road streetscene, the appeal site sits on substantially raised ground compared to the neighbouring building to the north. The host property is already significantly taller than the immediate neighbouring property and other properties within Westbury Road. Moreover, Westbury Road slopes steeply downward from its junction with Palmerston Road. Given its scale and elevated position at the end of the street, the appeal site is prominently visible along much of the length of Westbury Road. The proposal would exacerbate this dominance and create further disparity with the prevailing form of development along Westbury Road. Accordingly, the scale of the proposal would appear disproportionate and incongruous among its surroundings.
15. I acknowledge that paragraph 124 e) of the Framework seeks to support opportunities to use the airspace above existing residential and commercial premises for new homes. However, it also states that upward extensions should be consistent with the prevailing height and form of neighbouring properties and the overall street scene. For the reasons set out previously, I do not find the proposal would meet these criteria.
16. The proposal would feature large areas of glazing and the proportions of the fenestration would be slightly different to the existing building. Nevertheless, given the unremarkable appearance of the existing building and the variety of architectural styles in the area, the proposed detailing would be broadly acceptable.
17. For the reasons given above, by virtue of its height, bulk, scale and massing, the proposal would represent a disproportionate and incongruous development that would adversely affect the external appearance of the existing building, causing harm to the wider character and appearance of the area. Insofar as it is a material consideration relevant to this matter, the proposal would conflict with Policy DM9 of the LP, which requires all new development to achieve a high quality of design and contribute to the distinctive character and amenity of the local area. It would also conflict with the provisions of the Framework in this regard, which have similar aims.

Amenity

18. The Council's decision notice refers to effects on the living conditions of Nos 66 and 68 Palmerston Road in terms of overbearing and loss of light. Nos 66 and 68 are located on the diagonally opposite side of Palmerston Road to the southwest of the appeal site. At my visit I noted that whilst No 66 appeared to be a residential property, No 68 appeared to be a school.
19. The appeal site is well separated from both Nos 66 and 68. Based on my observations and the submitted evidence, I am not persuaded that the proposal would lead to harm to these properties in terms of overbearing.
20. The proposal is supported by a Daylight and Sunlight Report (the DSR). The DSR notes that it has been prepared in accordance with the Building Research Establishment Report 'Site Layout Planning for Daylight and Sunlight – A Guide

to Good Practice' 3rd Edition, 2022 (the BRE Guide). The DSR concludes that the effects of the development on daylight for No 66 Palmerston Road would be negligible, and well within the acceptable thresholds outlined by the BRE Guide. Based on the submitted evidence and my observations on site, I find no reason to dispute these conclusions. Although the DSR does not specifically assess No 68 Palmerston Road, it is further from the appeal site than No 66. I am therefore not persuaded the proposal would have a harmful effect on the daylight afforded to No 68.

21. Due to the appeal site being to the northeast of Nos 66 and 68 Palmerston Road, I am satisfied there would be no adverse effect on the sunlight afforded to these properties.
22. The Council's other concerns regarding amenity relate to the reduction in usable green space for Glenmead residents resulting from the new parking areas and bin store.
23. At my visit I noted the area proposed for bin storage to comprise a small area of rough ground between shrubs and the rear elevation of the garage block. It did not appear to be particularly well used for recreation purposes by residents. I therefore do not find the proposal to relocate the bin storage to this area would harm the amenity of residents.
24. The proposal involves the creation of additional parking spaces in an area adjacent to the current refuse storage area. I note interested parties have submitted comments disputing the history of this area of land. Nevertheless, I must base my assessment on the evidence before me, which provides limited substantive detail on this issue. At my visit the area appeared fenced off and not currently usable as part of the external amenity area or car park. Accordingly, I do not find the proposal to use this land for additional parking would adversely affect the amenity of current occupiers.
25. The area of the proposed cycle parking comprises partly of lawn and low-lying shrubs. It forms a corner of the soft landscaped amenity area, bound on two sides by existing footpaths, and by the remainder of the soft landscaped amenity area on the other sides. Whilst the proposed cycle storage would result in the removal of some usable amenity space and soft landscaping, this would not be a substantial area. Moreover, it is noted that the proposal would provide private amenity space for each unit in the form of outdoor terraces. As such, it is unlikely the additional units would place significant additional demands on the communal amenity space. The proposal would retain a reasonable amount of communal amenity space for the development, and I am not persuaded the slight reduction to the current provision would harm the amenity of the existing occupiers of the building.
26. For the reasons given above, I find no harm in respect of the amenity of the existing building and neighbouring premises. Insofar as they are material considerations relevant to this matter, the proposal would accord with Policies DM9 and DM10 of the LP, which seek to ensure development proposals take account of the privacy and amenity of a development's occupiers and neighbours, and to ensure appropriate amenity space provision.

Other Matters

27. I note the application was recommended for approval by the Council's planning officers but was refused by committee. This is an established democratic process and members of committee are not obliged to agree with the recommendation of officers. In making my decision I have had regard to all submitted evidence, including the report recommending approval of the application. The fact that members determined the application contrary to officer recommendation does not alter my conclusions on the main issues.
28. The site is in a sustainable location and the proposal would make efficient use of the site and contribute to the supply of housing, thereby supporting the Government's aspirations set out in the Framework. Nevertheless, the proposal would provide only a modest benefit of 5 units to the housing stock. As such, the benefits of the proposal would not outweigh the harm previously identified.
29. The fourth reason for refusal given on the Council's decision notice refers to the lack of a mechanism to secure the necessary financial contribution towards managing the effects of recreational pressure or air pollution on the Epping Forest Special Area of Conservation (the SAC).
30. In the event I was minded to allow the appeal, Article 3(1) of the GPDO effectively provides a pre-commencement condition where the development would affect a European protected habitat, such as a SAC, before the works could be undertaken as permitted development. This requires a separate application to the Council under regulation 77 of the Habitats Regulations to allow the Council to undertake an appropriate assessment to determine whether the scheme could be undertaken as permitted development under the GPDO.
31. The appellant has sought to address this matter through the submission of a Unilateral Undertaking to secure the necessary financial contribution. However, because I am dismissing the appeal for other reasons, there is no need for me to consider this matter further.

Conclusion

32. For the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR