



Appeal Decision

Site visit made on 1 May 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2024

Appeal Ref: APP/J1535/W/23/3327591

67 Palmers Grove, Nazeing, Waltham Abbey EN9 2QE

- 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 J Jackman, Jake Jackman Properties Ltd against the decision of Epping Forest District Council.
 - The application Ref is EPF/1325/23.
 - The development proposed is proposed two bedroom chalet style bungalow after demolition of the existing garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the purposes of this appeal, I have used the description of development used by the Council on the decision notice, as this describes the proposal more accurately than the appellant's description within the planning application form.
3. The Government published a revised National Planning Policy Framework (the Framework) in December 2023, replacing the previous version dating from September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

Main Issues

4. The main issues in this appeal are the effect of the proposal on:
 - the character and appearance of the area;
 - the Epping Forest Special Area of Conservation (SAC); and
 - the living conditions of the occupiers of neighbouring properties, with particular reference to outlook.

Reasons

Character and appearance

5. The appeal site is an area of land adjacent to 67 Palmers Grove (no. 67) containing a single storey garage and vehicular access and parking area. Immediately to the rear of the site is the Green Belt, and the low height of the garage and fencing within the appeal site affords views of the countryside

- beyond. This contributes positively to the character and appearance of the area.
6. The majority of properties on this part of Palmers Grove are two storey semi-detached houses with pitched roofs, set back from the highway behind off-street car parking. To the right of the appeal site, when viewed from the highway, is a short terrace of bungalows which are also set back from the highway.
 7. The building line of properties on this side of Palmers Grove is gently staggered to follow the curve of the road. However, as a result of the proposal's proximity to no. 67 and resultant lack of spacing between the properties, its position forward of the prevailing building line would be unusually prominent within the streetscene.
 8. The lack of separation to no.67 would not be characteristic and would appear at odds to the majority of properties on Palmers Grove which have spacing between their side elevations and site boundaries. As a consequence, I find that the dwelling would be 'squeezed' onto the site in a manner that would appear cramped. In coming to this view, I have taken into account that the appeal site is currently occupied by a single storey garage and that there were originally other built features on the site.
 9. Similarly, to the rear, the proposal would project a significant distance beyond the rear of the adjoining terrace of bungalows. Whilst its footprint may not be larger than the extant planning permission¹ at the site, its orientation, including its large projection to the rear of the adjoining bungalows, would create the impression of a dwelling within an unusually small plot which would not reflect the general pattern of development.
 10. In determining the previous appeal², the Inspector identified harm arising from the proposal obstructing views towards the Green Belt, including views of mature trees to the rear of the site. The current appeal proposal is taller, wider and has a larger footprint than the previous appeal scheme. As a result of its width and height, the proposal would block views of the countryside immediately to the rear of the site, including of mature trees, which are apparent from a number of viewpoints within Palmers Grove, and which positively contribute to the character of the area. As a consequence, the proposal would result in a loss of the existing leafy and less developed character that is an important feature of the appeal site and the surrounding area.
 11. I therefore find that the proposal would harm the character and appearance of the area. For the above reasons, I find conflict with Policies DM9 and DM10 of the Epping Forest District Local Plan Part One (2023) (LP) which, amongst other things, require that developments are consistent with and protect the character and appearance of the area and include enhanced provision of green infrastructure, including the quantity and quality of landscaped areas.
 12. There would also be conflict with paragraph 135 of the Framework which requires that developments are visually attractive as a result of good architecture, layout and effective landscaping.

¹ EPF/2417/22

² APP/J1535/W/22/3301982

Effect on the SAC

13. The appeal site is in relatively close proximity to the Epping Forest SAC. 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. The effects arising from the proposed development need to be considered in combination with other developments in the area and by adopting a precautionary approach. Where the SAC would be affected, consent can only be granted if there are no alternative solutions, there are imperative reasons of overriding public interest and suitable compensatory measures are provided.
14. The supporting text to Policy DM2 of the LP 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 as a result of the effects of air-borne pollutants, including from traffic.
15. The proposal would be for one dwelling. Occupants of the dwelling 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. Given the quantum of development, the amount of additional recreational visitors would be small and the likely effects on the SAC from the proposed development alone would not be very significant. However, in combination with other developments the proposal would likely have significant effects on the European protected site.
16. As such, the development would have an adverse effect on the integrity of the SAC, but regard can be had to whether these adverse effects can be mitigated. In this regard, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
17. 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. Contributions towards off-site measures to mitigate the likely impacts of 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.
18. In this case, there is no legal agreement before me to secure the appropriate financial contributions to ensure that no harm is caused to the integrity of the protected site. In the absence of acceptable mitigation, I therefore conclude that the proposed development would cause harm to the integrity of the SAC.
19. It has been suggested that the proposal would be occupied by a member of the appellant's family. However, there is no mechanism before me by which this might be secured. Therefore, there is a likelihood that, in the future, the dwelling could be occupied by people not related to the occupiers of the

existing dwelling. This would give rise to the previously identified adverse effects.

20. The appellant indicates that there is an extant agreement with payment having been made in relation to the previous planning permission. However, even though the appellant has indicated a willingness to enter into an agreement to address any mitigation required to address concerns related to the SAC I have no such agreement before me. As I am dismissing the appeal for other reasons, the presence of a completed agreement could not, in any event, lead to a different decision. It has therefore not been necessary for me to pursue this matter.
21. In view of the absence of securing appropriate mitigation, the proposal conflicts with the requirements of the Habitats Regulations, which are described above, and the relevant aspects of Policies DM2 and DM22 of the LP. 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.

Living conditions for neighbouring occupiers

22. The position and orientation of the proposal has been adjusted since the previous appeal. As a result, the proposal's side elevation would have a greater separation from the shared boundary with the neighbouring bungalow and would be angled away from the bungalow's nearest rear windows. These windows do not face the appeal site, but instead are directed to the open countryside to the rear of its garden.
23. The proposal would create additional built form which would be visible in angled views from the neighbouring bungalow's rear windows and within its garden. However, its low eaves and relatively low height pitched roof form, combined with the greater separation and orientation when compared to the previous appeal scheme would reduce the impact of the proposal. Overall, I consider that these factors, would ensure that the proposal would not be overly oppressive to the extent that it would cause unacceptable harm to the level of outlook for occupiers of the neighbouring bungalow.
24. The proposal would have living room windows facing towards the rear part of the neighbouring bungalow's garden. However, as they are at ground floor level, and located a significant distance from the shared boundary, which the submitted drawings indicate will be marked by a 1.8 metre tall close boarded timber fence, there would not be a harmful level of overlooking towards the neighbouring property. In coming to this view, I have taken into account that the appeal site is on land which is slightly higher than the bungalow.
25. The proposal would be positioned forward of no. 67's front elevation. No. 67's front door is adjacent to the appeal site, whilst its nearest window serving a habitable room is positioned at the far side of the front elevation, a significant distance from the proposal. As a result of this distance and the very oblique angle from the window to the proposal, it would not have a harmful impact on the outlook from the window.
26. I therefore conclude that the proposal would not have a harmful effect on the living conditions of neighbouring occupiers. Accordingly, I find no conflict with

the requirements of Policy DM9 of the LP insofar as it seeks to ensure that new developments take account of the amenity of the development's neighbours. Nor do I find conflict with paragraph 135 of the Framework which requires that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

27. The appellant has identified development plan policies and Framework paragraphs relating to matters including making the best use of land which it is contended that the proposed development would accord with. I have also found no harm in relation to matters such as the living conditions of existing residents. However, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.
28. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

Planning Balance and Conclusion

29. I acknowledge that residential development in this location is acceptable in principle and the proposal may be compliant with various provisions of the development plan. However, it would be harmful to the character and appearance of the area and, would have an adverse effect upon the SAC.
30. The appellant has brought to my attention that the site benefits from an extant planning permission and indicates that this is a fallback position. However, the submitted evidence indicates that the main differences with the appeal proposal include an increase in ridge height by 1 metre, the inclusion of two roof lights to the front roof and slope and two dormer windows to the rear elevation. It therefore appears that the extant permission, due to its smaller overall size, would be less harmful than the proposed development which would provide a taller and more bulky building which would be more prominent. Therefore, while the extant permission could go ahead, given that it would be less harmful than the proposal I give minor weight to the fallback.
31. The Government's objective is to significantly boost the supply of homes. Other provisions of the Framework give support to the development of brownfield land within settlements and observe that small sites can make an important contribution to meeting the housing requirement. As a small site the appeal proposal could be developed out quickly. Support for such sites, particularly windfall sites within existing settlements is provided by paragraph 70 of the Framework. However, given that the development is for a single dwelling only, the benefit to the housing supply is relatively limited.
32. The appellant indicates that there is a severe lack of bungalows within Nazeing, especially within level walking distance of amenities. It has also been put to me that, with an ageing population, the demand for bungalows will increase over time. I understand that the driving factor for the proposal is to relocate an elderly member of the appellant's family to be as close as possible to them for daily care in their advancing years.
33. Whilst I do not doubt that there would be beneficial effects, these would not be sufficient to outweigh the conflict with the development plan as a whole and

there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR