



Appeal Decisions

Site visit made on 25 April 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal A Ref: APP/J1535/W/23/3329199

6 Lower Alderton Hall Lane, Loughton, Essex IG10 3LW

- 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 AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Lara St Pierre against the decision of Epping Forest District Council.
 - The application Ref is EPF/0229/23.
 - The development proposed is construction of one additional storey at roof level comprising 1 x self-contained residential flat (Class C3), with associated works.
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Appeal B Ref: APP/J1535/W/23/3329205

10 Lower Alderton Hall Lane, Loughton, Essex IG10 3LW

- 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 AC of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Lara St Pierre against the decision of Epping Forest District Council.
 - The application Ref is EPF/0228/23.
 - The development proposed is construction of one additional storey at roof level comprising 1 x self-contained residential flat (Class C3), with associated works.
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Decisions

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. As set out in the banner headings above, this decision letter relates to two appeals on neighbouring, albeit not adjoining, sites. Both proposals relate to development of a similar nature, although there are differences between the two schemes before me and I have determined each proposal on its individual merits. However, in the interests of conciseness and to avoid duplication I have dealt with the issues common to both appeals together.
3. Class AC of Part 20 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) establishes that new dwellinghouses on terrace buildings in use as dwellinghouses are permitted development subject to several restrictions and conditions. Paragraph AC.2(1) of Part 20 Class AC lists the matters for which prior approval must be sought before beginning the development.

4. The regulations pertaining to 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 appeals.
5. The Epping Forest District Local Plan 2011-2033 Part One (the LP) was adopted following the Council's decision on the applications subject to the appeals. 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 notices. The policies of the 1998 Plan are no longer part of the development plan and have no weight in determining these appeals.

Main Issue

6. There is no dispute that the proposals would accord with the criteria set out in Paragraph AC.1 of Part 20 Class AC of the GPDO, which establishes the limitations for development subject to prior approval.
7. Therefore, in accordance with Paragraph AC.2(1) of Part 20 Class AC of the GPDO and having regard to the Council's reasons for refusing the applications, the main issue in the case of both appeals is whether prior approval should be granted having regard to the external appearance of the building.

Reasons

8. Both appeal sites are two-storey flat-roofed terraced dwellings in a predominantly residential area. Both sites lie on land between Oakwood Hill to the south and east, Lower Alderton Hall Lane to the west, and the Central Line of the London Underground to the north. Oakwood Hill is a reasonably busy road on a bus route and both properties are highly visible to passing traffic and pedestrians from it. The sites lie adjacent to areas of publicly accessible open space that are characteristic of the immediate area.
9. The sites form part of a wider area of mid-20th-century development comprising houses and flats of varying scale and architectural detailing. Most dwellings are laid out in either terraced rows or blocks of flats. Although there is some variation to the heights of buildings, including some 3 and 4-storey buildings, the individual blocks or terraces generally feature consistent or subtly stepped rooflines.
10. The site of Appeal A, No 6 Lower Alderton Hall Lane, is an end-terrace property within a terrace of 6 dwellings. There is a slight step in the roofline at the centre of the terrace, meaning the units of Nos 1 to 3 sit slightly lower than Nos 4 to 6.
11. The site of Appeal B, No 10 Lower Alderton Hall Lane, is a mid-terrace property within a terrace of 5 dwellings. The terrace sits to the northeast of that containing No 6 and runs perpendicular to it, featuring a consistent roofline.
12. Both terraces are served by the same parking and servicing area, which lies to the north of No 6 and west of No 10. All dwellings within the terraces feature a small, ground floor projection, with fenced private garden areas being found on

the opposite elevation. The ground floor projections of the terrace containing No 6 are on the north elevation facing the parking and servicing area, whereas the projections on the terrace containing No 10 are on the east elevation facing the open space with Oakwood Hill beyond.

13. Some dwellings feature minor extensions and alterations, including No 10 which features a ground floor conservatory. The terraces also exhibit some variety to the external materials. Nevertheless, the individual dwellings in both terraces are all of similar appearance and scale, and appear to retain a high degree of originality.
14. Both proposals would be of similar scale and appearance, and whilst their respective contexts are slightly different, their effect on the external appearance of the buildings, and their relationships with neighbouring properties, would be broadly comparable.
15. The existing roofline of No 6, along with its adjoining dwellings of Nos 4 and 5, sits slightly above the roofline of the other dwellings in the terrace. However, the difference between the respective rooflines is insignificant. Although No 6 sits at the taller end of the terrace, the development would create a substantial step up from No 5 to No 6, the scale of which would greatly exceed the existing subtle step at the centre of the terrace. Whilst the extended building would remain lower than some in the area, it would appear disproportionate alongside its immediate neighbouring properties. The overall bulk and massing resulting from the proposal would make the terrace appear lopsided, discordant, incongruous and at odds with the established form of development in the area.
16. No 10 sits slightly off-centre within its terrace, which currently features a consistent roofline. The effects of the proposal's bulk and massing would be similar to those felt at No 6, albeit with the increased scale sitting more centrally within the built form, as opposed to at the end of the terrace. Nevertheless, it would appear similarly discordant and incongruous, and at odds with the prevailing form of the locality.
17. When viewed in isolation, both proposals would broadly reflect the architectural style, detailing, dimensions, materials and fenestration of the existing host properties. The works to the ground floor, including installation of new entrance doors, would not adversely affect the external appearance of the buildings. Nevertheless, the lack of harm in this regard would be a neutral factor that would not weigh in favour of the proposals.
18. The statements supporting both proposals note that the principle of an upwards extension is established through the GPDO, and this would not have been brought forward if it was the Government's intention that uniform terraces could not be extended in a piecemeal fashion. I also acknowledge that the Framework seeks to support opportunities to use the airspace above existing residential premises for new homes. However, the Framework also states that upward extensions should be consistent with the prevailing height and form of neighbouring properties and the overall street scene. Based on my findings above, the proposals would conflict with these provisions. Moreover, the GPDO provides for such proposals to be considered on an individual basis with regard to the external appearance of the building.

19. Case law¹ has established that where prior approval is required in relation to the effect of development on the external appearance of a building, it will be a matter of planning judgement as to whether consideration is given to the effect in terms of the building's intrinsic design and/or to the effect in terms of the building's relationship with adjoining or nearby properties. My assessment above has been undertaken on this basis to consider the proposals in terms of both the individual buildings and the relationship to neighbouring properties.
20. I note the GPDO allows for up to two additional storeys through the prior approval process, whereas the proposals seek only to provide one additional storey to the properties. The submitted evidence also notes that both proposals seek not to jeopardise the future extension of every other building in their respective terraces under the provisions of the GPDO or otherwise. However, I am required only to consider the matter of external appearance based on the schemes before me, as I have done above. The potential effects of alternative schemes or future development of neighbouring properties are not matters I can speculate on.
21. For the reasons given above, by virtue of their height and prominence, both proposals would represent dominant and incongruous developments that would adversely affect the external appearance of the existing buildings, causing harm to the wider character and appearance of the area. Insofar as the development plan is a material consideration relevant to this matter, the proposals would conflict with Policy DM9 of the LP, which seeks, in respect of this issue, for all new development to achieve a high quality of design and contribute to the distinctive character and amenity of the local area. The proposals would also conflict with the provisions of the Framework in this regard, which have similar aims.

Other Matters

22. Because I am only able to consider the matters expressly set out in the GPDO, matters including the suitability and sustainability of the site and the Council's housing land supply position are not relevant to my determination of the appeals.
23. Because I am dismissing the appeals for other reasons, there is no need for me to consider matters relating to the Epping Forest Special Area of Conservation further. In any event, even if I was minded to allow the appeals, Article 3(1) of the GPDO 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. This matter therefore has no bearing on my decisions.

Conclusion

24. For the reasons given above I conclude that both appeals should be dismissed.

P Storey

INSPECTOR

¹ CAB Housing Ltd v SSLUHC & Broxbourne BC [2023] EWCA Civ 194.