



Appeal Decision

Site visit made on 12 November 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2024

Appeal Ref: APP/J1535/W/24/3341968

107 Old Nazeing Road, Nazeing, Waltham Abbey, Essex EN10 6RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Kian Parmar of Island Portfolio Development Ltd against the decision of Epping Forest District Council.
 - The application Ref is EPF/2809/23.
 - The development proposed is to demolish the bungalow and construct a semi-detached pair of dwellinghouses with associated parking, landscaping and boundary treatments.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Kian Parmar against Epping Forest District Council. This application is the subject of a separate decision.

Main Issues

3. Having regard to the Council's reasons for refusal and the representations from interested parties, the main issues in this appeal are:
 - the effect of the proposal on the living conditions of the occupiers of 109 Old Nazeing Road, with particular regard to light and outlook; and
 - whether the proposed development would reduce housing choice in the district.

Reasons

Living conditions

4. The appeal site comprises a bungalow situated within a large plot in a predominantly residential area. Positioned at a different angle to the appeal dwelling, the two storey adjacent house at 109 Old Nazeing Road (No 109) has ground floor rear facing kitchen-dining room windows and doors leading to a patio. Its playroom contains a glazed door facing the appeal site. The proposal is to replace the existing bungalow with a pair of two storey semi-detached dwellings with a single storey projection to the rear.
5. There is Building Research Establishment guidance on assessing the impacts of proposals on daylight and sunlight. The two storey part of the proposed structure would meet the BRE 45 degree test on plan in relation to the ground floor rear kitchen-dining room window at No 109, but the single storey part of

the scheme would breach it. Further, the proposed building would also breach the BRE 25 degree test in relation to the neighbouring ground floor side facing playroom door.

6. The proposed structure would be located south of the property at No 109, with the two and single storey parts of it extending significantly rearward of the neighbouring house. I note that the Council found only limited harm to the living conditions of neighbouring occupiers. Nevertheless, the height, projection and siting of the proposed building and its orientation relative to No 109 would cause a harmful loss of sunlight and undue overshadowing of the neighbouring patio.
7. The kitchen-dining room at No 109 has large rear patio doors in addition to the window. The neighbouring playroom contains large front windows as well as the side glazed door. Due to the amount of glazing to these rooms, the proposal would not result in a harmful loss of sunlight or daylight to the occupiers of No 109 when using their kitchen-dining and playrooms.
8. There are some views of the appeal bungalow and outbuildings from the neighbouring property, albeit the main outlook is towards their own garden. An existing single storey structure on the mutual boundary would be removed and the rear part of the proposed building would be visible from the rear rooms and outdoor space at No 109.
9. The appeal scheme would be larger than the existing bungalow and outbuildings, but it would be set back from the boundary. Due to the gap between the proposed structure and the neighbouring property, the proposal would not have an unduly overbearing effect on the occupiers of No 109 when using their rear rooms and garden.
10. The appellant is willing to accept a condition removing permitted development rights for outbuildings. However, this would not overcome the harmful overshadowing of the neighbouring patio resulting from the appeal scheme.
11. Whilst the proposal would not result in a harmful loss of outlook or daylight to No 109, I conclude that it would cause a harmful loss of sunlight to the occupiers of this property. This would conflict with Policy DM9 of the Epping Forest District Local Plan 2023 (LP) where it requires developments to provide good sunlight to adjacent land, including private amenity space.

Housing choice

12. There is a mix of properties in the area, including predominantly two storey houses in this part of Old Nazeing Road and single storey dwellings in some nearby cul de sacs.
13. Policy H1 of the LP aims to achieve a mix of housing and accommodation types. Criterion E seeks to resist the loss of bungalows as these are potentially easily adapted to provide choice for people with accessibility requirements, including older people.
14. The vacant property is in a state of disrepair and uninhabitable. The living accommodation is at a single level, but the shower room is accessed via the kitchen and the WCs are attached to other rooms. Due to its condition and configuration, the property could not be easily adapted to meet the accessible or wheelchair user dwelling standards in Building Regulations M4(2) or M4(3)

without significant works and changes to the internal layout. Further, the Council accepts that the proposed new dwellings would be accessible, as required by Policy H1.

15. There was a 16% increase in residents in the 65+ age group in the District between 2011 and 2021, with a smaller increase in the 25-44 age group. The Council asserts that the growing older population equates to a strong demand for bungalow type housing. Whilst this may be the case, the appeal property comprises a three bedroom dwelling within sizeable grounds which if refurbished would have a substantial market value. The appellant considers that the plot size and its market value would preclude it from being a viable downsize option for older households, and I have no reason to disagree.
16. There are mainly two storey dwellings on this section of the street, with only a few bungalows. However, single storey homes predominate in nearby Great Meadow and Buttondene Crescent. Although the appeal scheme would result in the loss of a bungalow on Old Nazeing Road, due to the presence of a significant number of such properties close by, the proposal would not result in an inappropriate mix of dwellings in the locality. It would replace the existing three bedroom property with a pair of four bedroom dwellings, contributing towards the needs for family sized houses. This would accord with the aim of providing housing for different groups in the community set out in the National Planning Policy Framework 2023.
17. There is reference to appeals where Inspectors dismissed proposals involving the loss of bungalows in the Council's area. However, limited details have been provided, so I am not able to compare those cases with the appeal scheme.
18. Consequently, I conclude that the proposed development would not harmfully reduce housing choice in the district. As such, it would not conflict with the objectives of Policy H1 of the LP.

Other Matters

19. The proposal would make more efficient use of residential land and contribute towards the supply of family housing in a settlement with public transport links. Nonetheless, there is no substantive evidence to demonstrate that the Council is failing to meet the needs for housing in its area which tempers the weight I have attached to housing delivery. Nevertheless, the provision of two dwellings, resulting in a net gain of one house, is still a limited benefit to be factored into the planning balance.
20. I note that the Parish Council strongly supports the proposal, but this does not alter my overall conclusion on the harmful loss of sunlight to the occupiers of No 109.
21. The Council did not find harm or development plan conflict in relation to several other matters, including character and appearance, space standards, trees, ecology, heritage assets, flood risk and drainage, contamination, highways and parking, energy efficiency, and noise. Nevertheless, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
22. The proposed development would be likely to have a significant effect, either alone or in combination, on the Epping Forest Special Area of Conservation (SAC). This is due to its location within the 6.2km recreational zone of

influence, and the potential for more atmospheric pollution as a result of increased traffic using roads through the SAC. The appellant has submitted a unilateral undertaking which includes contributions towards mitigating any significant effects on the SAC. However, given my conclusion below, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

23. I have found that the proposal would cause a harmful loss of sunlight to the occupiers of No 109. This is a planning harm which attracts considerable weight. The delivery of additional family housing attracts limited weight and the remaining matters only neutral weight, which accordingly do not outweigh the harm I have found.
24. For the reasons given above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

A Wright

INSPECTOR