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## Appeal Decision

Site visit made on 8 January 2025

**by G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date:** 30<sup>th</sup> January 2025

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**Appeal Ref: APP/J1535/W/24/3345811**

**128 Manor Road, Chigwell, IG7 5PR**

- 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 Group One Investments Ltd against the decision of Epping Forest District Council.
  - The application Ref is EPF/0668/24.
  - The development proposed is the demolition of an existing detached dwelling and the construction of a new apartment block providing 5no. apartments and construction of 1no. bungalow to rear, including associated amenity, parking, landscaping and other associated works.
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### Decision

1. The appeal is dismissed.

### Procedural and Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was issued in December 2024. The Council's decision notice directly refers to paragraphs 131, 135, and 186 of the 2023 version of the Framework. The paragraphs relating to achieving well-designed places are unchanged in the revised Framework, and whilst the wording of the later paragraph in relation to biodiversity impacts is unchanged, this is now paragraph 193. The main parties have had the opportunity to provide comments, and therefore, I am satisfied that there is no prejudice by the change to the national planning context. For clarity, any references in my decision to the Framework and its paragraph numbers are to the latest 2024 version.
3. The second reason for refusal relates to the absence of a completed Section 106 obligation to mitigate impacts on the Epping Forest Special Area of Conservation (EFSAC). As part of the appeal, the appellant has submitted a Unilateral Undertaking (UU) dated 3 July 2024 pursuant to Section 106 of the Town and Country Planning Act 1990. This includes provisions for financial contributions per net dwelling towards the strategic Assess Management and Monitoring Strategy and the Epping Forest Air Pollution Mitigation Strategy to counter adverse recreational impacts and air pollution to the EFSAC. I consider this matter later in my decision.
4. Planning permission was refused and subsequently dismissed on appeal in January 2024<sup>1</sup> for 5no. apartments on the appeal site. The design and form of the apartment block as part of this proposal is the same as that previous scheme. The appeal was dismissed on the loss of the bungalow and the associated conflict with

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<sup>1</sup> Appeal Reference APP/J1535/W/23/3330219

policy H1(E) of the Epping Forest District Local Plan 2011-2033 (Local Plan). This current scheme includes a detached bungalow positioned to the rear of the apartment block.

5. Consent was also granted in April 2024 in relation to a prior notification for the demolition of the existing property (Council reference EPF/0578/24).

### **Main Issues**

6. The main issues are whether the form of the development, in particular the proposed bungalow in a backland location, is appropriate for the locality, and would provide appropriate living conditions for the future occupiers.

### **Reasons**

7. No. 128 is a detached bungalow located off a spur road to Manor Road close to the junction with Hainault Road. This area comprises a number of recent developments of apartment blocks, including the neighbouring property, Imperial Heights, which wraps around the corner, and work has commenced on a proposal for a three-storey development of 11 apartments on the land to the rear of the appeal site (146 Hainault Road). Interspersed with apartments are individual properties, including the appeal property and the neighbour to the other side, No.130, a large detached house. Notwithstanding the different housing types, there is a coherence to the settlement pattern which has a regular pattern of rectangular plots to the road. The properties are set back and are generally aligned with many extending across the width of the plot. This creates a strong frontage of development, with the properties having a direct relationship with the road.
8. There are glimpses of built form to the rear of properties, particularly in Lechmere Avenue and Fontayne Avenue to the rear of the appeal site, although these are ancillary outbuildings and subservient structures. There are also some flatted developments which address more than one road frontage and/or which have deep forms. Nonetheless, the appeal site only has a relationship to Manor Road, and from my visit to the area, I did not see any indications of other backland developments of the arrangement proposed with individual residential properties located directly behind other developments.
9. The proposed positioning of the bungalow would be at odds with the established pattern of development and would be enveloped by three-storey buildings. The bungalow would have no visual or physical relationship to Manor Road and would be accessed only by a path along the side of the apartment block. As such it would lack individual identity and a sense of place with the lack of a defined entrance and connection to the surrounding area.
10. The inclusion of the bungalow seeks to address the previously identified policy conflict in relation to the loss of a bungalow, but its provision would dissect the site. The communal space for the apartments would be significantly reduced, and there would be a close inter-relationship between the two, separate and different residential environments. While the previous appeal decision found the external amenity provision and living conditions to be appropriate, that was based on the whole site comprising communal space for the residents of the 3-bedroom apartments which would be significantly reduced. The Inspector also commented that the external space would not be perfect for some occupants, and there was a reference to the narrow side passage.

11. Set approximately 57m back from the road, access to the bungalow would be through the car park and along a narrow path. A significant length of which would be between the flank elevation of the apartment block and the boundary, which comprises fencing and built form to the neighbouring property. I do not find that this would be a convenient or attractive access to the property, especially for older or disabled people, for which a bungalow offers suitable accommodation.
12. Paragraph 135 (f) of the Framework advocates for developments to create a place that is safe, inclusive and accessible. The physically wider areas providing a potential passing point for users with a bike or in a wheelchair, potential landscaping and the likely modest number of movements would not alleviate this poor access arrangement. Also at the narrowest point would be the bedroom windows of one of the ground floor apartments with potential disturbance and a conflict of uses.
13. The appellant suggests that it is common for a scheme of apartments to have windows in close proximity to parking areas or other communal space, and the previous inspector, found the path acceptable. While I acknowledge that there are differing levels of privacy expectations for different types of developments, the proposal has significantly changed. What was a secondary side access for occupants of the apartments to access the communal garden and cycle storage, would now also serve a completely separate dwelling. Being the bungalow's only access it would be in regular use by the occupants and visitors, and if required by emergency services.
14. Reference is made to an appeal decision for 18 Russell Road (APP/J1535/W/20/3260793) which included concerns regarding the distance between the property and parking. Whilst I acknowledge the circumstances in that case are different, the Inspector's comment *"..that every journey undertaken by occupiers and visitors, in and out of the site, including those with mobility difficulties, those with children, those carrying shopping or other goods and every delivery to the site, would involve such a walk"* is equally applicable here. Moreover, this proposal is for a bungalow wherein the occupiers are more likely to have mobility issues. Even accessing the car park, which includes a disabled parking space, would be a significant distance and it is further restricted by its enclosure. The arrangements would not provide a satisfactory level of amenity for future occupiers of the bungalow, and there would be a poor relationship with the apartments through the dual usage of the side access and the subdivision of the plot.
15. Overall, I find that the proposed bungalow to the rear of the apartment block would harm the legibility of the area, disrupting the relatively cohesive character of the area. The layout would create a property without a frontage to the road and poor accessibility, which would be to the detriment of the living conditions of the future occupiers of the development.
16. The development would, therefore, conflict with Policy DM9 of the Epping Forest District Local Plan 2011-2033 Part One (Local Plan) which requires, amongst other things, that all new development achieves a high quality of design that relates positively to its context and contributes to the distinctive character of the local area and integrates occupier comfort and wellbeing within the design and layout. The proposal also conflicts with paragraphs 131 and 135 of the Framework, which requires development to be sympathetic to local character, maintaining a strong

sense of place that functions well and has a high standard of amenities for future users, including creating safe, inclusive and accessible environments.

### **Planning Obligation**

17. The appellant has provided a UU to provide financial contributions towards mitigating the effect of the development on the EFSAC, which principally derives from recreational pressure and air pollution.
18. The Council has not directly commented on the UU. However, the provisions in relation to the EFSAC reflect those set out in the Council's appeal statement and echo those referenced in the previous appeal decision, but with increased financial amounts in line with the net increase in the number of dwellings. The previous obligation was found to meet the tests of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended), and there is no information before me which leads me to take a different view.
19. Nonetheless, this does not affect my findings on the main issue, and as such I have not considered it necessary at this stage to consult Natural England and to complete an appropriate assessment as the competent authority.

### **Other Matters**

20. Reference is made to other developments, including a decision that the appellant considers sets a precedent for the loss of a bungalow with provisions to address the requirements of Local Plan policy H1(E) made in a different way. Whilst I understand the appellant's concerns regarding consistency in the Council's decision-making, and since the previous appeal decision prior approval has been established for the demolition. Be that as it may, the bungalow is still present on site, and I am considering the scheme before me. Any alternative arrangements would be the subject of a separate planning application.
21. The principle of residential development on the site is acceptable, and the general design of the dwellings would be appropriate for the area with suitable materials employed. The proposal would retain the existing tree subject to a Tree Preservation Order and incorporate cycle storage and car parking with electric charging points. However, compliance with other policies is a neutral matter.
22. The proposal would make more efficient use of land and is a windfall site with the net increase in dwellings contributing to the housing supply, and there would be associated economic benefits. The dwellings would also be built to modern standards and would incorporate accessibility and energy-saving provisions. A statement is provided to show compliance with part M of the Building Regulations. This primarily relates to the internal arrangements and level thresholds, and there is no information to indicate that the bungalow could be appropriately served in the event of a fire.
23. I have had regard to the representations made by local residents and the Parish Council, some of which raise additional concerns to those set out in the reasons for refusal. However, given my findings on the main issue, it is not necessary to consider these matters in detail.
24. The appellant has highlighted that whilst there has been improvement in the Council's housing delivery, having reference to the latest Housing Delivery Test 2023, the delivery rate over the last three years was 66%. With regard to paragraph

11 of the Framework and the associated footnote (footnote 8), it is less than 75% of the housing requirement, and therefore the tilted balance is to be applied.

### **Planning Balance and Conclusion**

25. At the heart of the Framework is a presumption in favour of sustainable development and, as triggered in this case, paragraph 11d ii) advises that development proposals should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
26. With regard to the particular key policies noted, the site is within an existing settlement; the development would make more effective use of land and help boost the supply of housing. It would not, however, based on my findings, secure a well-designed place either for future residents or in relation to its integration with the character and appearance of the area, and it does not provide affordable homes.
27. Paragraph 131 of the Framework confirms that creating high-quality buildings and places is fundamental to what the planning process should achieve, and that good design is a key aspect of sustainable development. It would also fail to achieve the social objectives as the layout and the access arrangements to the bungalow would not meet the needs of the occupiers, and it has not been demonstrated that safe and suitable access can be achieved for all users.
28. Whilst there would be some benefits, the environmental provisions and economic benefits are not significant, nor is it an innovative design which promotes high levels of sustainability.
29. The development plan remains the starting point for the consideration of development proposals, and policy DM9 is consistent with the aims of the Framework to support high-quality design.
30. Overall, I find that the adverse impacts of the development on the character of the area and future living conditions would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. There are no other considerations which outweigh this finding, and therefore, for the reasons set out, the appeal is dismissed.

*G Ellis*

INSPECTOR