



Appeal Decision

Site visit made on 21 January 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th February 2025

Appeal Ref: APP/J1915/W/24/3346605

66 Eastwick Road, Eastwick, Hertfordshire CM20 2QZ

- 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 B Hayward against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2165/FUL.
 - The development proposed is the erection of two storey detached dwelling with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the appeal form, as opposed to the original application form, as it provides a more accurate description of the proposal.
3. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views, and the revised version has been taken into account in this decision.

Main Issues

4. The main issues are:
 - whether the proposal would be in a suitable location for housing, having regard to the development strategy for the area and access to services and facilities;
 - the effect of the proposed development on the living conditions of the adjoining neighbours at 66, 68 and 70 Eastwick Road, with particular regard to outlook and privacy; and
 - the effect of the proposal on the character and appearance of the area, with reference to trees.

Reasons

Suitability of location

5. Policy DPS2 of the East Hertfordshire District Plan 2018 (DP) sets out a broad development strategy in the form of a hierarchy. Development is directed to

sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy.

6. The appeal site lies within Eastwick, which is identified as a Group 3 village as set out in DP Policy VILL3. Within Group 3 Villages, limited infill development identified in an adopted Neighbourhood Plan will be permitted. Eastwick is covered by the Gilston Area Neighbourhood Plan 2020-2033 (2021) (NP), but my attention has not been drawn to any NP policy supporting limited infill development within Eastwick.
7. Eastwick is designated in the DP as a Rural Area beyond the Green Belt. In such areas, DP Policy GBR2 permits limited infill or the partial or complete redevelopment of previously developed land (PDL) in sustainable locations.
8. I have not been directed to any definition of infill within the DP nor does the Framework provide such definition. It is therefore a matter of planning judgement. 66 Eastwick Road (No 66) is set at the end of a short line of dwellings fronting Eastwick Road, and it is located by the junction between Eastwick Road and Eastwick Hall Lane. The appeal site lies to the rear of No 66 with open countryside beyond, and it is accessed directly off Eastwick Hall Lane. As such, the proposal would not constitute infill development.
9. The appeal site comprises residential garden land associated with No 66, albeit it is separated from the remaining garden of this property by a tall wooden fence. The Council asserts that the site does not comprise previously developed land (PDL) having regard to the definition of PDL within the Framework. The appellant does not dispute the Council's findings, and based on the evidence before me, I have no reason to disagree with the Council's conclusion regarding this matter.
10. The supporting text to Policy VILL3 identifies that these are the smallest villages in the district and generally have a poor range of services. The village does indeed have very limited services and facilities, and these include a public house and a church. There are negligible bus services in the area. The nearest settlement is Harlow and although this provides a good range of key day to day services, facilities and employment, access to Harlow is via Eastwick Road and the A414. Eastwick Road is narrow, unlit and has no dedicated pedestrian footway beyond the village, while the A414 is a high-speed dual carriage which does not have a formalised pedestrian crossing that would facilitate pedestrian movement towards Harlow. This would significantly reduce the likelihood of journeys using sustainable modes of transport.
11. As such, there would be a distinct reliance on the private motor vehicle for even the most basic of day-to-day requirements. On this basis, the proposed development would not provide a suitable location for housing considering the accessibility of services and facilities.
12. I note the comprehensive plan for the whole Gilston Area as set out within the NP. However, there is no specific evidence before me to demonstrate when the strategic plan as envisioned by the NP will be coming forward. As such, while the appeal site may become well connected in the future, in the absence of any certainty regarding the delivery of the strategic plan, this matter is of limited relevance in my consideration of this appeal.

13. Accordingly, the appeal site is not in a suitable location for housing, having regard to the development strategy for the area and access to services and facilities. The proposal would therefore conflict with DP Policies INT1, DPS2, VILL3, and GBR2, where these policies seek to protect the countryside and direct new development to areas with good access to services and facilities. It would also conflict with DP Policy TRA1 as a range of sustainable transport options would not be available to the occupants of the proposed development.

Living conditions

14. The proposed dwelling would be very close to the rear gardens of No 66 and 68 Eastwick Road (No 68). By reason of the close relationship with the rear boundary of these properties, and given its overall height, bulk and large expanse of blank wall, the dwelling would appear unduly prominent when seen from the rear gardens of these properties. Given the modest scale of the rear gardens of No 66 and No 68, the proposal would have an enclosing and overbearing effect for these residents in terms of outlook while using their garden, thereby harming their living conditions.
15. The dwelling would contain first floor windows facing 70 Eastwick Road (No 70), one of which would serve a bedroom. Due to the short distance to the side boundary of No 70, these windows would closely overlook the garden space of this neighbouring property, thereby resulting in an unacceptable harm to the occupants' enjoyment of that space.
16. Thus, the proposal would have a harmful effect on the living conditions of the adjoining neighbours at 66, 68 and 70 Eastwick Road, with particular regard to privacy and outlook. It would be contrary to DP Policy DES4, which supports development of a high standard of design and layout and avoids significant detrimental impacts on the amenity of occupiers of neighbouring properties.

Character and appearance

17. There are several mature trees, hedging and shrubs located along the northern boundary of the appeal site. This green infrastructure is visible in the street scene and makes an important contribution to the rural and leafy character of the area.
18. The appeal is supported by an Arboricultural Report (AR), which sets out that the field maples are categorised as B2 and are in good health. The hawthorn hedge is categorised as C2. The AR identifies that the scheme would require pruning of the T3 and part of T2 to accommodate the dwelling.
19. Given the proximity between the dwelling and the trees, they would likely cause concern to the dwelling's future occupiers, which may include the nuisance of leaf litter. Still, even if future occupants did not consider this matter a nuisance, taking account of the size of the trees and the level of canopy spread across the plot, future occupants would likely be fearful of branches falling into their outside spaces. As such, it is likely that the trees would require periodic tipping back. This would create pressure to remove or substantially prune the trees, which would diminish their appearance and landscape value.
20. The AR indicates that the proposal would encroach upon the root protection areas (RPA) of the field maples by more than the 20% recommended by the 2012 British Standard. However, higher encroachments can be acceptable in certain

conditions. Indeed, the AR advises that any impact could be mitigated by appropriate methodology during excavation within RPAs for foundations and appropriate foundation design. These incursions, moreover, would not necessarily result in significant loss of rooting capacity because of the nature of the encroachment. The surfaces would be designed and laid in a way that would ensure a continuation of moisture recharge and gaseous exchange by being fully permeable and thereby allowing for root survival. Additionally, they would be constructed in a way that would minimise root severance.

21. On this basis, I find that the health of nearby trees would be safeguarded in construction terms. Still, this would not overcome the harm in relation to the likely pressure to prune the trees in the future, as I have identified above.
22. As such, the proposal would have a harmful effect on the character and appearance of the area, with reference to trees. It would be contrary to DP Policy DES3, which seeks to protect and enhance existing landscape features which are of amenity and/or biodiversity value.

Other Matters

23. Nos 66, 68 and 70 are Grade II listed. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of this heritage asset. The listing description suggests that the building dates late-19th century. It is a picturesque block of five former estate alms houses, now three houses, designed to give the appearance of a larger medieval hall house with two cross wings, asymmetrically placed projecting porch, steep red tiled roofs and tall yellow stock brick chimneys. The significance of this heritage asset therefore derives, in part, from its design and materials and its setting is informed by other neighbouring picturesque buildings and surrounding open countryside.
24. The proposed dwelling would be of a traditional design and materials. Its position, scale and footprint would be consistent with the pattern of development of the village. As such, the proposed development would preserve the setting of the listed building.
25. Reference is made to a planning permission recently granted by the Council for the conversion of stables to a dwelling on a nearby location. However, I have not been provided with the specific details of the circumstances and considerations that led to the approval of this development. As such, I cannot make any useful comparison between the proposal and this scheme.
26. Given the harm associated with the proposal in terms of unsuitable location, living conditions of adjoining residents and character of the area with reference to trees, the proposal would fail to make an efficient and effective use of this site.
27. The proposal would support the Government's aim of significantly boosting the supply of homes and improve the current shortfall within the District Council. However, given the modest scale of the proposed development, these benefits carry limited weight in favour of the proposal.

Planning Balance

28. The appeal site is not a suitable location for the proposed development and the proposal would be harmful to the living conditions of adjoining neighbours and to

the character of the area with reference to trees. The magnitude of these harms would be significant.

29. The Framework seeks to direct development towards locations with good access to services and facilities, avoiding reliance on travel by car. Further, it supports the creation of places with a high standard of amenity for existing users and seeks to conserve the natural environment. Therefore, the conflict between the proposal and DP Policies DPS2, VILL3, GBR2, TRA1, DES4 and DES3 should be given significant weight in this appeal.
30. As there are no policies in the DP which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, there would a conflict with the development plan as a whole.
31. The Council advises it cannot currently demonstrate a five year supply of deliverable housing sites, which is not disputed by the appellant. As such, the provisions of paragraph 11d) ii of the Framework should be applied. This paragraph requires that planning permission should be granted 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.
32. As set out above, the benefits associated with one additional dwelling would be limited. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

33. 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. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR