



Appeal Decision

Site visit made on 26 March 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Appeal Ref: APP/J1535/W/24/3352822

Birnam Lodge, Nursery Road, Loughton, IG10 4EF

- 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 Jones against the decision of Epping Forest District Council.
 - The application Ref is EPF/1357/24.
 - The development proposed is the demolition of the existing dwelling and construction of replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and construction of replacement dwelling at Birnam Lodge, Nursery Road, Loughton, Essex IG10 4EF in accordance with the terms of the application, Ref EPF/1357/24, subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans have been submitted with the appeal. These show an alternative layout to the front garden including changes to the position of the vehicular access and alterations to the boundary treatment, as such they are a fundamental change to the appeal proposal. What is considered at appeal should be essentially the same scheme that was considered by the local planning authority. In this case the amended plans would result in a different application and the changes have not been consulted upon. For that reason, I will not accept them.
3. The appellant refers to an appeal decision at Corner Garth¹. A copy of this decision was requested as it was not submitted with the appeal.
4. On 12 December 2024, the Government published a revised National Planning Policy Framework (the Framework). Having reviewed the changes, I am satisfied that they do not affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.

Main Issue

5. The main issue is the effect of the proposed dwelling, brick wall and railings on the character and appearance of the area.

¹ APP/J1535/D/24/3351205

Reasons

6. The appeal site contains a modest detached two storey dwelling (Birnam Lodge) facing Nursery Road. The road is characterised by large, detached properties of varying designs, with a uniform building line within spacious plots. Birnam Lodge is noticeably smaller than other dwellings on Nursery Road.
7. Front boundary treatments are varied with examples of low-profile walls, taller brick walls with brick piers, rendered walls and close boarded fencing. Despite differences between the varying designs of properties and boundary treatments, the dwellings have a well-designed cohesive appearance due to the form, size and position of dwellings within their plots.
8. Whilst the replacement dwelling would be larger and more imposing than the existing in terms of its height, scale, depth, mass and bulk, its form would be comparable to other properties in the road. It would also maintain the uniform building line, and its design would be in keeping with the character and appearance of the area.
9. Whilst this corner site has a notable open characteristic, the proposed dwelling would be viewed in the context of other properties facing Nursery Road, and in this setting, the scale of the proposal would not result in the harmful overdevelopment of the site. Whilst the proposal would be closer to the side boundary compared to other corner properties, the flank elevation is set in from the boundary and its mass would not appear unacceptably imposing when viewed from High View Close.
10. The site currently has a highly visible open spacious frontage, however, other corner plots along the road have been enclosed therefore the proposed wall and railings would be in keeping with the character and appearance of the area. In addition, the railings would maintain a degree of openness, permitting views into the site from both Nursery Road and High View Close.
11. Reference is made to the appeal site mirroring the open frontage of the opposite corner plot (Corner Garth). Whilst the Council refused permission² for a boundary wall, gates and railings at this site, the subsequent appeal³ allowed the scheme. As a result, the proposed boundary treatment would mirror the form of enclosure at Corner Garth and maintain the character and appearance of the area.
12. In conclusion, the proposed dwelling, brick wall and railings would have an acceptable effect on the character and appearance of the area. The proposal would therefore be compliant with policy DM9 of the Epping Forest adopted Local Plan 2023. This policy requires development to be of a high quality and contribute to the distinctive character and amenity of the local area.

Other Matters

13. A significant proportion of the Epping Forest Special Area of Conservation (EFSAC) lies within the administrative area of Epping Forest District Council. The effects of the proposal on this designation must be considered in combination with other plans and projects in the area. The Habitats Regulations Assessment (HRA) concludes that there are two identified pathways of impact whereby development

² EPF/1394/24

³ APP/J1535/D/24/3351205

within the district is likely to result in significant effects on the EFSAC. The identified pathways relate to recreational pressures and atmospheric pollution. Given that the proposal is for a replacement dwelling, there would be no net increase in recreational pressures or atmospheric pollution and therefore there would be no adverse effect on the EFSAC.

14. An interested party has raised concerns regarding the proposed basement and the increase in the number of basements in the road. This concern would appear to relate to the structural feasibility of a basement which is not a planning matter.

Conditions

15. I have had regard to the Council's suggested conditions and the six tests. In addition to the standard time condition, a condition to list the approved plans and documents in the interest of certainty is required.
16. A condition is required to control the external finish of the development, to ensure high quality design and to preserve the character and appearance of the area. The suggested condition has been amended as there was no requirement for it to be a pre commencement condition.
17. A condition requiring all excavated material from below ground is removed from the site is required to ensure that levels are not altered across the site. In addition, given that the site is on a slope, a condition is needed requiring the submission of the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. This is to ensure that the proposed development does not negatively affect the character and appearance of the area or the living conditions of the neighbouring property.
18. Conditions are proposed to ensure compliance with the proposed hard and soft landscaping, protect retained trees and require their replacement if they become damaged or become diseased. These conditions safeguard the positive appearance that retained and proposed vegetation makes to the appearance of the development.
19. A detailed condition requiring dust monitoring, and a construction management statement have been suggested. Given the modest nature of the proposed development the condition is neither reasonable nor necessary.
20. A condition relating to contaminated land was also suggested. However, the submitted Impact Assessment Report (P5967J3034/JWT) relating to potential contamination identifies no significant sources of potential contamination or gas generation at the site. Therefore, this condition is not deemed necessary.

Conclusion

21. For the reasons given above the appeal should be allowed.

V Goldberg

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans and documents:

Phase I Desk Study & Stage 1 & 2 Basement Impact Assessment Report dated 28 June 2024, 3071-01, 3071-02, Soft landscaping, plant specifications, MP/BIR/01 and MP/BIR/02, 3071-11 Revision B, Planning, Design and Access Statement and 3071-10 Revision B
3. No development above ground level shall take place until details of the external materials to be used, including all glazing details, have been submitted to and approved in writing by the Local Planning Authority. The works must then be carried out in accordance with the approved details.
4. No development above ground level shall take place until all material excavated from the below ground works hereby approved are removed from the site.
5. No development above ground level shall take place until the details of levels have been submitted to and approved by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
6. If any tree, shrub or hedge shown to be retained in the submitted Arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub or hedge of the same size and species shall be planted within 3 months at the same place. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.
7. Tree protection shall be installed as shown on Moore Partners Ltd 'Tree Protection Plan' drawing number 'MP/BIR/01' (dated 05/06/2024) prior to the commencement of development activities (including any demolition). The methodology for development (including Arboricultural supervision) shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports.
8. Hard and soft landscaping shall be implemented as shown on Moore Partners Ltd 'Landscape plan' drawing number 'MP/BIR/02' (dated 05/06/2024); and the accompanying planting schedule. The works shall be carried out prior to the occupation of the building or completion of the development. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place.