



Appeal Decision

Site visit made on 6 May 2025

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal Ref: APP/J1535/W/24/3353156

69 Hemnall Street, Epping, Essex CM16 4LZ

- 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 and Mrs Andrew and Susan Smith against the decision of Epping Forest District Council.
 - The application Ref is EPF/1017/24.
 - The development proposed is a new 2-bedroom private detached cottage with basement.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs Andrew and Susan Smith against Epping Forest District Council, subject of a separate decision.

Preliminary Matter

3. Since the appeal was submitted a new version of the National Planning Policy Framework (the Framework) came into effect but there are no material changes relevant to the substance of the appeal.

Procedural Matter

4. A unilateral undertaking (UU) has been submitted regarding the fourth reason for refusal on the decision notice, to provide mitigation in relation to the effects of the proposal on the Epping Forest Special Area for Conservation (SAC). I will return to this matter later.

Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the area; the living conditions of the future occupiers and the occupiers of 69 Hemnall Street, with regard to private amenity space and the living conditions of the occupiers of No 67 and 69 and 16 and 17 Theydon Place, relating to outlook.

Reasons

Character and appearance

6. The appeal site is located in the rear garden of No 69, a detached dwelling at the corner of Hemnall Street and Theydon Place. It is adjacent to a single storey substation and fronts Theydon Place. The regular arrangement of properties along Hemnall Street and Theydon Place and their generous rear gardens results in an

orderly rhythm to the character of the area. While there are differences in design of the surrounding dwellings and variety in their appearance, the similarity in the built form and spaces around the properties creates a consistent, spacious and harmonious character.

7. The proposal would introduce a two-storey detached dwelling in the existing rear garden of No 69, subdividing the plot. The proposed dwelling's appearance would have a carefully considered detailed design and the use of sympathetic high-quality materials would help to assimilate the proposal with other dwellings in the area. However, it would have an awkward relationship with the prevailing pattern of development by encroaching on the spacious gap between No 69 and 16 Theydon Place. It would not therefore relate positively to the characteristic layout, undermining the relationship between plots and buildings.
8. As such, the juxtaposition of buildings would be disjointed, and the proposal would result in an incongruous form of development that would not fit well into the surrounding context. In coming to this conclusion, I have taken account of the layout and grain of buildings and spaces, alongside appearance, materials and building details, all of which contribute to a well-designed place. It would therefore fail to meet the provisions of the Framework which seek developments that are sympathetic to local character and establish or maintain a strong sense of place, using the arrangement of streets and spaces, building types and materials to create attractive, welcoming and distinctive places.
9. Despite any screening afforded by the existing trees, the increase in built form in this low-density area would be readily apparent, including on approach from the cul de sac opposite the site. In these views, the proposed dwelling would terminate the view, harmfully eroding the existing spacious qualities created by the rear gardens of Hemnall Street and Theydon Place which are generally free of large outbuildings. While there is a substation adjacent to the site, owing to its low height and modest scale this does not visually compete with the balance between spaces and buildings in the way that the appeal proposal would.
10. My attention has been drawn to apparently similar developments involving subdivision of gardens in the surrounding area. However, there is no clear evidence to indicate that they are directly comparable to this appeal scheme. In any event the fact that apparently similar development has been granted permission, and support from some local residents, are not reasons, in themselves to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above
11. Overall, I conclude that the proposal would be unduly harmful to the character and appearance of the area and would conflict with Policy DM9 of the Epping Forest Local Plan 2011 – 2033 (2023) (EFLP). Amongst other things, this policy requires development to contribute to the distinctive character of the local area, relating positively to its context and making a positive contribution to place.

Living conditions – private amenity space

12. Irrespective of the overall numerical measurement of the amount of external private amenity space for the future occupiers of the proposed dwelling, the proposed layout within the plot would result in leftover spaces and relatively narrow sections of open space which typically provide little benefit. The amenity space is therefore not attractively laid out. Furthermore, it is not clear that the terrace to the rear would

provide good sunlight, daylight and open aspects for the occupiers, given its limited size and position in between the shared boundary with No 67 and the proposed dwelling, failing to meet the requirements of EFLP Policy D9.

13. Notwithstanding that the existing rear garden of No 69 would be reduced, in combination with the side garden, it is not disputed that the private amenity space would exceed the advised minimum space standard in the Essex Design Guide. However, while the side garden would meet an element of the occupiers' needs, given the proximity and height of the proposed dwelling to the shared boundary, the remaining rear garden would not be a particularly inviting space. Thereby limiting its useability and enjoyment for the occupiers of this property, unreasonably affecting their living conditions.
14. The proposal would therefore be contrary to Framework Paragraph 135 where it states development should create places that promote health and well-being and have a high standard of amenity for existing and future users. While other properties in the wider area may have similar numerical levels of private amenity space provision, I do not have precise details regarding the context of the other properties and the circumstances are likely to be different. In any event, I have determined this appeal scheme on its own planning merits.
15. To conclude, the proposal would be harmful to the living conditions of the future occupiers and the occupiers of No 69, with regard to private amenity space. The proposal would conflict with EFLP Policies DM9 and DM10, insofar as they require development to integrate occupier comfort and wellbeing within the design and layout, including private amenity space, having regard to open space standards.

Living conditions – outlook

16. I have carefully considered the appellant's amendments to a previous scheme including reducing the massing of the proposal by lowering the ridge height, reducing the height of the wall and setting back the footprint from the shared boundaries. Nevertheless, the proposal would result in a noticeable difference in built form for the occupiers of No 67 and 69 and an uninviting outlook.
17. Despite the sloping roof profile, the proposal's height and proximity to the shared boundary would result in the dwelling appearing as a dominant and oppressive feature, narrowing the outlook experienced from the rear windows and the rear garden of No 69. The very limited set back from the shared boundary with No 67 would have an overbearing effect that would be detrimental to the levels of outlook that could reasonably be expected in a private outdoor space for these occupiers. Even if the rear elevation would be similar in height to the existing boundary treatment, the dominant scale and massing of the proposed dwelling as a whole would be readily apparent.
18. The appellant advances a fallback position comprising the exercise of permitted development rights under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). However, as illustrated at Appendix A of the appellants statement, while the length of the building along the shared boundary with No 67 could be longer, the whole building would be set back from the boundary and would be of a single storey. Any building that met the conditions and limitations of the GPDO would therefore, in my view, not be a closely comparable form of development to the appeal scheme and

the effects on neighbouring occupier's outlook would not be similar. Therefore, I find the suggested fallback position to have limited weight.

19. The proposal would result in a visual change for the occupiers of 16 and 17 Theydon Place. However, given the separation distances between the property at No 16 and the mature landscaping at the shared boundary any views of the appeal scheme would be filtered, and the occupiers outlook would be maintained. Similarly, the property and garden at No 17 are sufficiently far away from the proposal that there would not be any unacceptable harm to their outlook. It follows that there would be no detrimental effect on the living conditions of the occupiers of No 16 and 17 as a consequence.
20. As such, I conclude that the proposal would be harmful to the living conditions of No 67 and 69 in relation to outlook and would be in conflict with EFLP Policy DM9. Amongst other things, this policy requires development to take account of the amenity of neighbours and not result in an overbearing form of development that impacts the outlook of occupiers of neighbouring properties.

Other Matter

21. The appeal site is located within the zone of influence of the Epping Forest SAC, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations) in recognition of the significance of its ecological features. The Regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat.
22. Notwithstanding the submitted UU and the appellant's agreement to make a financial contribution to mitigate the effects of the proposal on the SAC in terms of recreational pressure and air quality, as the scheme is unacceptable for other reasons, it is not necessary for me to consider the implications of the proposal upon the protected site.

Planning Balance and Conclusion

23. The proposal would contribute to the local housing mix, including for an ageing population, through the addition of an adaptable home in an accessible location that would be sustainably designed and constructed. These are clear benefits of the scheme. However, the creation of high-quality places is fundamental to what the planning and development process should achieve and as explained above, that would not be the case for the appeal scheme. The benefits of the scheme do not therefore alter or outweigh the harm that I have identified on the main issues.
24. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

F Harrison

INSPECTOR