



Appeal Decision

Site visit made on 19 August 2025

by N Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2025

Appeal Ref: APP/J1535/W/25/3367656

Bury Lodge, Bury Road, Waltham Forest, Essex E4 7QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Nina Chaudhary against the decision of Epping Forest District Council.
 - The application Ref is EPF/0639/25.
 - The application sought planning permission for a replacement dwelling at Bury Lodge permitted under EPF/3327/18 without complying with condition 17 attached to EPF/2577/19, dated 19 December 2019.
 - The condition in dispute is No. 17 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Part 1, Class A, B, C and E shall be undertaken, without the prior written agreement of the Local Planning Authority.
 - The reason given for the condition is: The specific circumstances of this site warrant the Local Planning Authority having control over any further development, in accordance with guidance contained within the National Planning Policy Framework, Policy DBE9 of the adopted Local Plan and Alterations and Policy DM9 of the Epping Forest District Council Local Plan Submission Version 2017.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at Bury Lodge permitted under EPF/3327/18 without complying with condition 17 attached to EPF/2577/19 at Bury Lodge, Bury Road, Waltham Forest, Essex E4 7QL in accordance with the application Ref EPF/0639/25, without compliance with condition number 17 previously imposed on planning permission Ref EPF/2577/19 dated 19 December 2019 and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council's original decision made reference to the 1995 version of the Town and Country Planning (General Permitted Development) Order which had already been revoked at the time of the decision. However, as the condition refers to "any other order revoking and re-enacting that order", I have taken this to mean the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). Furthermore, the condition did not refer to Schedule 2 of the Order however it appears that, on the merits and intent of the condition, this can only be within Schedule 2 of the Order.

Background and Main Issue

3. Planning permission was granted for a replacement dwelling at the site under reference EPF/3327/18. This permission was subsequently varied by planning permission EPF/1976/19 and again, most recently, by EPF/2577/19. The latter now forms the operative permission for the existing dwelling. Permission is sought for the removal of condition 17 of this permission and therefore the main issue is whether the condition is reasonable and necessary having particular regard to the living conditions of neighbours.

Reasons

4. The existing dwelling at Bury Lodge comprises a three storey home in a baroque pastiche style. It occupies a broadly L shaped plot with the inside element of the 'L' being occupied by a neighbouring home, known as Mantel. This property comprises a comparatively diminutive bungalow which has a quite small rear garden.
5. The opportunity to undertake development with deemed planning permission under Classes A, B, C and E, Part 1, Schedule 2 of the Order, commonly known as permitted development, were withdrawn by condition 17 of the permission. The reason for the removal of these rights was due to the specific circumstances of this site although this was not elucidated upon in the decision notice. However, in its refusal to vary the condition, the Council have made specific reference to Mantel and the effects any such proposal could have on the living conditions of the occupants of this property.
6. The juxtaposition of the two neighbours is unusual insofar as the plot at Bury Lodge effectively wraps around two sides of its significantly smaller neighbour. Consequently, there is the potential for there to be adverse effects from exercising permitted development rights which would not occur in a more conventional arrangement.
7. This is not to say that any proposed extensions or outbuildings would be harmful to the living conditions of neighbours, but there is a distinct propensity for this to be the case. Accordingly, I find it reasonable and necessary to retain the restrictions insofar as it relates to Classes A and E.
8. The Council has not persisted in any objections insofar as it relates to Class B and C and I agree. Alterations to the roof would not introduce any concerns regarding living conditions that would be different from more ordinary site constraints.
9. I recognise that the Planning Practice Guidance (PPG) notes that blanket removal of freedoms to carry out small scale domestic alterations should not be applied, and any such conditions need to be precisely defined. This is the approach I have adopted here. I have further had regard to the other decisions cited by the appellant but the context of these all differ in a material manner and none of these examples possess the characteristics that exist here.

Conclusion

10. For the reasons given above I conclude that the appeal should partly succeed. I will grant a new planning permission by varying the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

Conditions

11. I have re-imposed all those conditions applied by the Council in its original decision with the exception of condition 1. This is a time limit condition and therefore, as the development is substantially complete, it is no longer required.
12. Condition 17 is re-imposed (as condition 16) to remove references to Classes B and C. Further corrections to this condition are to ensure it is clear and relates to the most current version of the Order.
13. Some conditions of the varied planning permission contained conditions which required the provision of further information and/or cross reference previously approved documents. The advice in the PPG makes clear that decision notices for the grant of planning permission under s73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

N Bowden

INSPECTOR

Schedule of Conditions

- 1) No construction works above ground level shall have taken place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved by the Local Planning Authority, in writing, prior to the commencement of the development. The development shall be implemented in accordance with such approved details.
The details submitted to the Local Planning Authority on 10/04/19 under reference EPF/0832/19 pursuant to condition number 2 of planning permission reference EPF/3327/18 and approved by the Local Planning Authority on 04/06/19 are deemed to form the approved details for the purposes of this condition.
- 2) The development hereby permitted will be completed strictly in accordance with the approved drawings nos: FXC_001, 002, OOSB, 006,, 007, 008, 010H, 100K, 200Q, 201Q, 203B, 180516-L-10 rev A; Design and Access Statement; TMA Arboricultural Report 180516-PD-11a Dec 2018; Ken Rush Associates Flood Risk Assessment and Management and Maintenance Plan 18-6354 Dec 2018; TMA Bat Survey and Mitigation report Sept 2018 180516-ED-02a; TMA Ecological report 180516-ED-01b.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 21 days of the report being completed and approved in writing by the Local Planning Authority.
The details submitted to the Local Planning Authority on 10/04/19 under reference EPF/0876/19 pursuant to condition number 2 of planning permission reference EPF/3327/18 and approved by the Local Planning Authority on 10/06/19 are deemed to form the approved details for the purposes of this condition.
- 4) Following completion of the measures identified in the approved remediation scheme, and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority

for approval. The approved monitoring and maintenance programme shall be implemented.

- 5) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the Phase 2 report, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 21 days of the report being completed and approved in writing by the Local Planning Authority.
- 6) The development permitted by this planning permission shall be carried out in accordance with the approved flood risk assessment (Flood Risk Assessment and Management and Maintenance Plan, Ref 18-6354 December 2018) and drainage strategy submitted with the application, unless otherwise agreed in writing with the Local Planning Authority.
- 7) A specialist bat consultant, registered to use the Low Impact Class License, must be engaged to ensure that demolition works to the building are undertaken in accordance with the relevant legislation and guidance issued by Natural England. A letter from the hired ecologist stating that they have been engaged to carry out work will be submitted to the Local Planning Authority for approval.
The details submitted to the Local Planning Authority on 10/04/19 under reference EPF/0832/19 pursuant to condition number 8 of planning permission reference EPF/3327/18 and approved by the Local Planning Authority on 04/06/19 are deemed to form the approved details for the purposes of this condition.
- 8) Prior to the commencement of works, a Construction Method Statement be submitted to the Local Planning Authority for approval. This will include the recommendations made in the ecological report regarding badgers, hedgerows and reptiles.
The details submitted to the Local Planning Authority on 10/04/19 under reference EPF/0832/19 pursuant to condition number 9 of planning permission reference EPF/3327/18 and approved by the Local Planning Authority on 04/6/19 are deemed to form the approved details for the purposes of this condition.
- 9) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds be harmed and/or that there are appropriate measures in place to protect nesting birds interests on site. Any such written confirmation should be submitted to the Local Planning Authority.
- 10) Prior to the commencement of works, an ecological enhancement plan will be submitted to the Local Planning Authority for approval. This shall include:

- a) A lighting strategy for biodiversity
 - b) A plan showing the location of the bat boxes recommended in the ecological report
The details submitted to the Local Planning Authority on 10/04/19 under reference EPF/0832/19 pursuant to condition number 11 of planning permission reference EPF/3327/18 and approved by the Local Planning Authority on 04/06/19 are deemed to form the approved details for the purposes of this condition.
- 11) 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, unless the Local Planning Authority gives its written consent to any variation. If, within a period of 5 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.
 - 12) Soft landscaping shall be implemented as shown on Tim Moya Associates 'soft landscaping plan', drawing number 180516-L-10 rev A dated December 2018 and the accompanying planting schedule, unless the Local Planning Authority gives its prior written approval to any alterations. If, within a period of 5 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, unless the Local Planning Authority gives its written consent to any variation.
 - 13) The tree protection, methodology for construction adjacent to trees and Arb site supervision shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement, unless the Local Planning Authority gives its prior written approval to any alterations. Tree protection shall be implemented as shown on Tim Moya Associates 'tree protection plan', drawing number 180516-P-12 rev B dated September 2018.
 - 14) Prior to the first occupation of the development, any redundant dropped kerbs shall be reinstated to full height, including any necessary footway works as required.
 - 15) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
 - 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2010 (as amended) (or any other Order revoking, further amending or re-enacting that said Order) no

development permitted by virtue of Schedule 2, Part 1, Classes A or E shall be undertaken, without the prior written permission of the Local Planning Authority.

- 17) Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
- 18) All construction/demolition works and ancillary operations including vehicle movement on site which are audible at the boundary of noise sensitive premises shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

End of Schedule