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## Appeal Decision

Site visit made on 5 November 2025

by **L Reid BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

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**Appeal Ref: APP/J1535/W/25/3369994**

**45 Spareleaze Hill, Loughton, Essex IG10 1BS**

- 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 Richard Rains against the decision of Epping Forest District Council.
  - The application Ref is EPF/0137/25.
  - The development proposed is demolition of existing dwelling, and erection of two-storey detached replacement dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling, and erection of two-storey detached replacement dwelling at 45 Spareleaze Hill, Loughton, Essex IG10 1BS in accordance with the terms of the application, Ref EPF/0137/25, subject to the conditions in the attached schedule.

### Applications for costs

2. An application for costs was made by Mr Richard Rains against the decision of the Epping Forest District Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are the effect of the proposal on:
  - The living conditions of the occupants of Nos. 43 and 47 Spareleaze Hill, with regards to privacy; and,
  - The character and appearance of the area.

### Reasons

#### *Living conditions of the occupants of Nos. 43 and 47 Spareleaze Hill*

4. The appeal site is a large two-storey dwelling with an additional roof-level floor. It is located between Nos. 43 and 47 Spareleaze Hill (Nos. 43 and 47), which are its nearest neighbours. The proposal involves demolishing the existing dwelling and building a larger replacement. Across its rear elevation, the proposed dwelling would have two balconies, one at first floor and another at second floor, as well as two Juliet balconies at first floor level.
5. The rear elevation of the existing dwelling includes several Juliet balconies at the first and second floors. At my site visit, I stood at each of these Juliet balconies. From the outermost Juliet balconies near to the shared boundaries, I could see

most of the rear garden of No. 43, and the rear garden of No. 47 and their swimming pool, with the second floor level providing the most extensive views into these gardens. Views from the central Juliet balconies were primarily towards the appeal site's own garden, with the neighbouring gardens largely screened due to the mature landscaping along the side boundaries.

6. Balconies at first and second floor level could make neighbours feel more overlooked because their elevated position may seem to allow for wider views, and people tend to spend longer periods of time on balconies. However, the first floor balcony would be centrally positioned, not spanning the full width of the dwelling, with one side enclosed by the dwelling wall and the other by a 1.8m privacy screen, secured by planning condition. The second floor balcony would be enclosed within the gable roof. Enclosing the sides of the balconies in this way would limit the extent of overlooking, preventing users of the balcony from gaining a direct view back towards the rear elevations of Nos. 43 and 47. Given the height, it is unlikely that balcony users would obtain clear views into the rear windows of Nos. 43 and 47 to such a degree that would significantly compromise the privacy of these rooms.
7. Although the balconies would be designed to direct views outwards, because of their height and position, there would be some views into the rear gardens of Nos. 43 and 47, including the swimming pool at No. 47, which various people, including children use. However, these views would be no greater than those I saw at my site visit. Therefore, the privacy of the occupants of Nos. 43 and 47 when using their rear gardens and swimming pool would not be reduced to such an extent that would detrimentally harm their living conditions.
8. The proposed Juliet balconies would be positioned similarly to the existing ones on the rear elevation at first floor level, set in from the dwelling edges and away from the shared boundaries. As they would not allow users to step outside, their impact on privacy would be comparable to a standard window. The Council has raised no concerns about the second floor dormer window, which, given its height, could allow significant views into neighbouring gardens. However, I do accept that a Juliet balcony could make neighbours feel more overlooked than a standard window. Nevertheless, given their similarities in terms of positioning and height, the level of overlooking from the Juliet balconies toward the rear gardens of Nos. 43 and 47 would be no greater than the current situation and would not detrimentally affect the privacy of Nos. 43 and 47 when using their rear gardens or swimming pool.
9. To prevent any additional opportunities for overlooking, planning conditions could be imposed to require that the roof over the single-storey section of the dwelling is not used as a seating area or terrace, and that the first floor side windows are fitted with obscure glazing and have restricted openings.
10. For these reasons, I therefore conclude that the proposal would not cause harm to the living conditions of the occupants of Nos. 43 and 47, with regards to privacy. Accordingly, it therefore complies with Policy DM9 of the Epping Forest District Local Plan 2011 – 2033 (the Local Plan), which amongst other things, expects proposals to avoid overlooking and loss of privacy detrimental to the living conditions of the neighbouring occupiers.

### *Character and appearance*

11. On Spareleaze Hill, dwelling heights generally reduce as the road slopes downward, creating only subtle height differences between neighbouring properties. However, at my site visit I saw some newer developments that are noticeably taller than adjacent homes, a feature that now contributes to the area's character.
12. The appellant has stated in their submission that the proposed dwelling would be 300mm taller than the existing dwelling. There is no compelling evidence before me to dispute this measurement. The difference in height would therefore be minimal. The proposed elevations demonstrate that the ridge height of the dwelling would remain below that of No. 47, in keeping with the gradual height transitions along the road. Although the proposed dwelling would be taller than No. 43, the differences in height would not be particularly noticeable, especially given the other taller buildings in the street scene. Therefore, the proposed height would not be unacceptable.
13. For these reasons, I therefore conclude that the proposal would not cause harm to the character or appearance of the local area. Accordingly, it therefore complies with Policy DM9 of the Local Plan. This policy, amongst other things, requires development proposals to have regard to building heights and relate positively to their context.

### **Other Matters**

14. A significant proportion of the Epping Forest Special Area of Conservation (SAC) lies within the administrative area of Epping Forest District Council. The Regulations impose a duty on the competent authority, to consider whether any proposal may have a significant effect on such a protected area either alone, or in combination with other plans and projects. This responsibility now falls on me in respect of the appeal proposal.
15. The SAC was designated due to the presence of three qualifying habitats and one species, namely Atlantic beech forest, European dry heaths, Northern Atlantic wet heaths and the Stag beetle. The habitats and species may be adversely affected as a result of additional recreational pressure from visitors and a deterioration of air quality arising from increased traffic volumes through the protected area. 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 integrity of the SAC.
16. The reason for refusal in terms of design relates to the height of the proposed dwelling only. Although the proposed dwelling would have a large footprint, the plot is spacious, allowing adequate space around the dwelling so that it would not appear as too bulky. Building lines along the road are varied, making the siting acceptable. Similarly, variations in materials and detailing found in the street scene mean these aspects of the design are appropriate. Even if balconies are uncharacteristic for this part of the area, the Council has not raised any issues in terms of their impact on the character and appearance of the area, and I have no reason to disagree.

17. The application is supported by a daylight, sunlight and overshadowing assessment<sup>1</sup>. The findings conclude that the proposal would not detrimentally impact the sunlight or daylight received by Nos. 43 and 47, nor would there be significant overshadowing of their gardens. The application was not refused on grounds relating to overshadowing, overbearingness or sense of enclosure and based on the evidence, I see no reason to find differently on these points.
18. While the proposed balconies may generate some noise, it would be comparable to that from normal use of the rear garden and typical for a residential area. Therefore, they are unlikely to cause significant noise or disturbance. Although no justification has been provided for demolishing the existing dwelling, my attention has not been drawn to any relevant planning policies that require such justification to be provided. The application includes an Energy and Sustainability Statement, and I have not been advised that it fails to comply with the Council's sustainability policies or guidance. Communication from the Council about the application and information on their portal and within their officer's report are matters to be raised directly with the Council.

### Conditions

19. The Council has supplied a list of suggested conditions. I have considered these in light of the tests in the National Planning Policy Framework (Framework) and the Planning Practice Guidance (PPG). Where appropriate, I have adjusted the wording of the conditions to improve relevance, precision and enforceability.
20. I have imposed the statutory implementation condition [1], along with a condition listing the approved plans to provide certainty [2].
21. Conditions are imposed to require some of the windows to be obscurely glazed with restricted openings [3], the privacy screen at the side of the first floor balcony to be installed before the balcony is used [4] and restrictions on the access to and use of the flat roof [5]. These conditions are necessary in the interests of maintaining levels of privacy for neighbours.
22. In the interests of securing appropriate drainage, it is necessary to impose conditions relating to foul and surface water disposal [6]. To ensure risks from land contamination are identified and remediated as necessary, a contamination condition is imposed [7].
23. Conditions are included in respect of the construction period, including the provision of wheel washing and cleaning facilities [8] and restricting the hours of demolition, construction and deliveries [9], in order to minimise disturbance to local residents and in the interests of highway safety.
24. Given the topography of the site, a condition requiring the submission of the site levels pre and post-development [10] is necessary to ensure that the proposal would not negatively affect the character and appearance of the area or the living conditions of the neighbouring occupiers.
25. The Council has provided no justification for the imposition of a condition removing various permitted development rights. As set out in the PPG and the Framework, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The limitations and conditions of

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<sup>1</sup> DAYLIGHT, SUNLIGHT & OVERSHADOWING ASSESSMENT, prepared by EAL Consult, Date: December 2024

permitted development restrict the area of ground covered, the size and position of development allowed and provide some restrictions to protect neighbour amenity. Given the size and location of the plot, conditions removing permitted development rights would be unjustified and would therefore not be necessary or reasonable.

26. The application does not include, nor do the plans show, any plant equipment. Therefore, imposing conditions related to plant installation would be inappropriate, as such conditions would not be relevant to the development. It would also be unreasonable to impose the conditions suggested by Loughton Town Council as the proposed site plan shows that the existing front wall, railings and gates would be retained.

### **Conclusion**

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

*L Reid*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:  
  
BRD/23/041/001 - EXISTING SITE AND LOCATION PLAN  
BRD/23/041/002 - PROPOSED SITE AND LOCATION PLAN  
BRD/23/041/003 - PROPOSED FLOOR PLANS  
BRD/23/041/004 - PROPOSED ELEVATIONS  
BRD/23/041/005 - EXISTING AND PROPOSED STREET SCENES
- 3) Prior to first occupation of the development hereby permitted, the proposed windows within the flank elevation shall be fitted with obscure glazing to a minimum of Pilkington privacy Level 3 and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Once installed the obscure glazing shall be retained thereafter.
- 4) Prior to first occupation of the development hereby permitted, details of a privacy screen no lower than 1.8 metres high to be installed at the side of the first floor balcony as referenced on drawing no. BRD/23/041/003, shall be submitted to and approved in writing by the Local Planning Authority. The privacy screen shall be installed in accordance with the approved details before the balcony is first used and shall be retained thereafter.

- 5) Access to the flat roof shall be for maintenance or emergency purposes only and shall not be used as a seating area, roof garden, terrace, patio, or similar amenity area.
- 6) No development above ground level shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be provided on site prior to the first occupation of the development and shall be retained for the lifetime of the development.
- 7) Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped and 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 be undertaken. If any contamination is found then the site shall be remediated. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
- 8) 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.
- 9) No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 08:00 to 18:00 on Mondays to Fridays and 08:00 to 13:00 on Saturdays and not at all on Sundays, Public or Bank Holidays.
- 10) 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.

## **END OF SCHEDULE**