



Appeal Decision

Site visit made on 21 October 2025

by A Phillips MPlan BA CertHE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2026

Appeal Ref: APP/J1535/W/25/3370629

The Pines, Kendal Avenue, Epping, Essex CM16 4PW

- 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 Miss G Valente against the decision of Epping Forest District Council.
 - The application Ref is EPF/0506/25.
 - The application sought planning permission for a new detached four bedroom house to the rear of the site, including a raised driveway and a detached garage without complying with condition 2 attached to planning permission Ref EPF/2122/20, dated 11 January 2023.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans: 100/ REV B, 101 REV F, 102/REV C, 17118/P001Rev G, 17118/P002.
 - The reason given for the condition is: For the avoidance of doubt and to ensure that the proposal is built in accordance with the approved plans.
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Decision

1. The appeal is allowed and planning permission is granted for a new detached four bedroom house to the rear of the site, including a raised driveway and a detached garage at The Pines, Kendal Avenue Epping, Essex CM16 4PW in accordance with the terms of the application, Ref EPF/0506/25, without compliance with condition numbers 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 14 and 16 previously imposed on planning permission Ref EPF/2122/20 dated 11 January 2023 and subject to the conditions in the attached schedule.

Preliminary Matters

2. It was noted when I visited the site that ground works have been undertaken and that a structural base appeared to have been completed.
3. The two parties have not been able to agree on which plans formed the determination of the application to vary condition 2 on the decision notice for EPF/2122/20. Informative 3 on decision EPF/0506/25 states the Council made its decision on drawing numbers 05 G, 06 D, 08, 101 F and the Design and Access Statement. However, in the Council's response to my question it stated the relevant plans are 05 Rev G, 06 Rev D and 08. The appellant has stated that drawing 'Plan 101 Rev F is not the parent site plan but the parent site plan with annotations (additional dimensions) included on the plan showing dimensions of the building from the different boundaries'.
4. Drawing Plan 101 Rev F is therefore the plan in conflict. This drawing roof plan conflicts with drawings 05 Rev G, 06 Rev D and 08. If drawing 101 Rev F was taken into account it would create a fundamental conflict and would prevent the

developer from being able to build the dwelling in accordance with all the drawings.

5. Given the conflict in the plans and the Council's adopted position that drawing 101 Rev F is only supporting information and not a document for determination; I will make my decision on the variation of condition on drawings 05 Rev G, 06 Rev D and 08.
6. Drawings 102 REV C, 17118/P001/REVG and 17118/P002 referred to as approved drawings in planning decision reference EPF/2122/20 relate to the construction of the driveway and the protection of trees. These details would not be changed from the proposed amendments.

Main Issue

7. The main issue is the development's effect on the character and appearance of the local area.

Reasons

8. The proposal is for a one and a half storey dwelling located behind the two and a half storey dwelling of 11 Kendal Avenue. The land slopes up from Kendal Avenue before sloping down to where the proposed dwelling sits. The land is also on lower ground than the adjacent dwellings on Ravensmere. The dwellings on both Kendal Avenue and Ravensmere are a mix of architectural styles. There are very limited public viewpoints of the site and the proposed development.
9. The sought proposed change is to raise the front projecting gable to make a uniform ridge and eaves height. The overall maximum height of the proposed dwelling measures approximately 7.2 metres, which from the evidence provided there is no change to the overall ridge height from the approved plans. The proposal also changes a dormer on the rear elevation into a projecting gable. The proposal also seeks other changes that primarily relate to the fenestration.
10. The additional scale/massing due to the proposed changes are modest and would have very limited impact upon the character and appearance of the local area. In addition, the proposed changes would not materially diminish the quality of approved development.
11. I therefore conclude that the proposed development would preserve the character and appearance of the area. On this basis the proposal complies with policy DM9 of the Epping Forest District Local Plan 2011-2033 Part One (2023), which seeks to ensure high quality design and that positively contribute to their locality having regard to scale and building heights in the locality. The proposal also complies with the requirements of the National Planning Policy Framework 2024, specifically chapter 12.

Conditions

12. During my site visit, it was noted that the development has been commenced. On this basis there is no need to reinsert a commencement of development condition. Therefore, condition 1 of EPF/2122/20 is no longer required.
13. Condition 2 of EPF/2122/20 will need to be updated to reflect the now approved drawings and to ensure compliance with these approved details.

14. The Council has suggested a pre-commencement condition for materials. Given that development has commenced and that it is not necessary to require this information prior to commencement; I have reworded the condition for it to be a prior to above ground slab level.
15. With development commenced and no details that condition 4 of EPF/2122/20 has been discharged, I will reword this condition to ensure that the flood risk/surface water drainage details this condition requires is submitted in good time. The required implementation time suggested by the Council is prior to substantial completion, though with this timing imprecise and with substantial ground works already completed I will amend this condition to require the work is undertaken relatively soon to prevent water draining onto neighbouring land and require maintenance of the scheme in perpetuity.
16. Condition 5 of EPF/2122/20 removes permitted development for the proposed dwelling. I agree that these permitted development rights should be removed to ensure the Council has future control over character and appearance of the development. However, I have reworded the condition to remove the element to allow agreement in writing with the Council for future development; either the appellant should apply to remove this condition via under Section 73 or should apply for a formal permission of a proposed development.
17. Condition 6 of EPF/2122/20 removes window rights from the proposed dwelling. For the same reasons that relate to condition 5, as detailed above, I will reword this condition. This condition was added to ensure privacy of neighbouring properties.
18. Condition 7 of EPF/2122/20 relates to the protection and replacement of trees. This condition will be readed to ensure existing trees are protected allowing suitable landscaping is maintained.
19. Condition 8 of EPF/2122/20 relates to hard and soft landscaping. This condition will remain to ensure suitable landscaping is provided and maintained, though reworded as above ground works have already commenced.
20. Condition 9 of EPF/2122/20 is no longer being sought by the Council. Given that work has commenced and that there are other conditions protecting trees, I will remove this condition.
21. Condition 10 of EPF/2122/20 seeks to protect root protection areas from services. However, the condition will need to be reworded to ensure that it is a compliance condition for the same reasons detailed above regarding condition 5. In addition, this condition cannot control development that relates to adjoining land outside of the site.
22. Condition 11 of EPF/2122/20 seeks to ensure water sustainability. This condition will be reimposed to ensure long term sustainability of the site.
23. Condition 12 of EPF/2122/20 relates to the provision of Electric Vehicle Charging Points. This condition will need to be reworded to remove the words 'unless otherwise agreed in writing with the LPA', for the same reasoning as detailed for condition 5 as detailed above. In addition, the condition needs to be changed as above ground works have already taken place.

24. Conditions 13 and 14 of EPF/2122/20 will be added to ensure that construction work is undertaken appropriately to protect nearby residents from disturbance and to protect highway safety. However, condition 14 will need to be reworded, as I do not deem it to be enforceable to control mud and other debris on surrounding roads.
25. Condition 15 of EPF/2122/20 relates to unexpected contamination and will be reimposed to ensure protection of future occupants of the site and surrounding residents.
26. Condition 16 of EPF/2122/20 refers to super fast broadband provision. This condition will remain to ensure that this is provided, though the wording amended as above ground works have already commenced.

Conclusion

27. For the reasons given above the appeal should be allowed. I will vary the approval given to the details pursuant to conditions Nos 1, 2, 3, 4, 5, 6, 8, 9, 10, 12, 14 and 16 of a planning permission Ref EPF/2122/20, granted on 11 January 2023 by Epping Forest District Council deleting some of the requirements of disputed condition and rewording, as well as substituting/rewording others

A Phillips

INSPECTOR

Schedule 1 – Conditions

1. The development hereby permitted shall be carried out in accordance with drawing numbers 102 REV C, 17118/P001/REVG, 17118/P002 05 Rev G, 06 Rev D and 08.
2. No development above ground slab level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
3. Within 3 months of this decision a flood risk assessment and management and maintenance plan shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out within 9 months of this decision or prior to first occupation whichever is the sooner and shall be adequately maintained in perpetuity in accordance with the management and maintenance plan.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development permitted by virtue of Classes, A, B and E of Part 1 to Schedule 2 shall be undertaken.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed.
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. Prior to any above ground slab works, full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and

structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. 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.

8. No services shall be installed within the root protection area of any retained trees on the site.
9. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
10. Prior to any above ground slab works, details and location of the parking spaces (including garages) equipped with active Electric Vehicle Charging Point(s) shall have been submitted to and approved in writing with the Local Planning Authority. The installation of EVCP shall be completed in accordance with the approved details and made operational prior to first occupation. The details must include details on location of active charging infrastructure; and specification of charging equipment to be used.
11. 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 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.
12. 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.
13. The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. 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.

14. Prior to any above ground slab works, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority (LPA). The strategy shall seek to ensure that upon occupation of a dwelling, either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network, is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy.

End of Schedule