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# Appeal Decision

Site visit made on 12 November 2024

**by L Francis BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2024**

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**Appeal Ref: APP/J1535/W/24/3342186**

**13 Bracken Drive, Chigwell, Essex IG7 5RG**

- 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 Gurpal Oppal against the decision of Epping Forest District Council.
  - The application Ref is EPF/2520/23.
  - The development proposed is demolition of an existing 3 bedroom semi-detached bungalow including basement and erection of a new 4 bed semi-detached bungalow and basement.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Amended plans have been submitted with the appeal. These show the external stair between the garden and ground floor terrace being moved away from the boundary fence, along with an additional rooflight to the front roofslope and some minor alterations to the rear basement fenestration. What is considered at appeal should be essentially the same scheme that was considered by the local planning authority. I am satisfied that the updated plans are not substantially different to those before the Council when it made its decision and that no party has been prejudiced giving rise to any procedural unfairness. I therefore proceed to determine the appeal on the updated drawings.
3. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

## Main Issues

4. The main issues are the effect of the appeal proposal on:
  - the character and appearance of the surrounding area;
  - the living conditions of the occupiers of No. 11 Bracken Drive with particular regard to privacy, outlook, and disturbance during construction; and,
  - the living conditions of future occupiers.

## Reasons

### *Character and appearance*

5. Bracken Drive, towards its junction with Manor Road, is lined with semi-detached single storey and 1.5 storey chalet style dwellings. The road has a spacious character, enhanced by grass verges and street trees with the houses being set back from the street by large front gardens and parking areas. The land slopes down towards the south and west. The appeal site is one of a semi-detached pair and comprises accommodation over ground floor and a small basement which extends over part of the footprint to the rear. There is a garage to the side, located well set back from the front elevation. There is a similar arrangement to the adjoining house, No. 11.
6. The appearance of the semi-detached dwellings along this part of the street is varied, with some having front dormers and side extensions. Few of the pairs are completely symmetrical. Notwithstanding this variation in the street scene, most of the pairs of houses are not built up to the side boundaries. Where they are, the construction is generally in the form of a subservient single storey extension usually with a flat roof and well set back from the main elevation. The set-back extensions and gaps to the side create visual separation and a sense of spaciousness between the houses, particularly at roof level, contributing to the rhythm of development on the street.
7. The replacement dwelling would maintain the current ridge height to match the adjoining house at No. 11. The bulk of the roof would be greater, however, extending up to the boundary with No. 15. This additional bulk would effectively infill the existing gap created by the set-back of the existing garage. The effect of this would be to reduce any sense of separation between Nos 13 and 15 and it would be a dominant addition particularly in views looking uphill towards Manor Road. The additional bulk at the side, due to the lack of set-back to the boundary and increased bulk at roof level, would appear incongruous and would not fit with the pattern of development in the immediate area.
8. At ground floor and basement level, the replacement dwelling would extend further to the rear than the existing house, stepping back at roof level. The new basement would be significantly larger than the existing, extending beneath the entire footprint of the ground floor. Most of the uplift in floorspace created by the new dwelling would be contained in the basement. This would not be visible from the front of the house, but to the rear, the house would read as three storeys due to the drop in land levels and the visibility of the extended basement footprint. Although in this case the host building would be demolished, the replacement dwelling would nevertheless contain a significant amount of the floorspace within the basement and it would not therefore be a subordinate element of the scheme, particularly given its visual expression to the rear.
9. In terms of the detailed elevational design and use of materials, the new dwelling would fit with the prevailing character and appearance of the area in its use of brick and render to the front elevation. The more contemporary timber cladding and extensive glazing would be appropriate as it would be confined to the rear towards which there would be more limited views. Nevertheless, my findings on the detailed design and use of materials would not alleviate the harm arising from the scale and bulk of the proposed dwelling.

10. The scale and bulk of the building, including the extent of the basement level, would harm the character and appearance of the site and the surrounding area. This would run contrary to Policies DM9 and DM12(B) of the Epping Forest District Local Plan 2011-2033 (adopted 2023) (Local Plan). Taken together, and amongst other things, these policies require all new development to achieve a high quality of design, relate positively to their locality having regard to, the form, scale and massing around the site, and require the siting, location, scale and design of basements to have a minimal impact on and be subordinate to the host building and property.
11. The Council refer to Local Plan Policy SP2 in their reason for refusal. This policy is a more strategic policy relating to place shaping principles and I do not find it directly determinative with regards to the effect of the appeal proposal on the character and appearance of the site and surrounding area.

*Living conditions of adjacent occupiers*

12. At first floor, the proposed terrace would be located adjacent to the flank of the first-floor dormer of No. 11. The terrace would be substantial in size, sufficient to allow sitting out. I note the appellant's point that the existing ground floor extension and flank of the dormer would assist in preventing overlooking to No. 11. Whilst this would provide a degree of mitigation, there would nevertheless be the potential for views into the rear garden of No.11 from the terrace. The effect of a terrace, where people are likely to spend time, would be more intrusive and sustained for a longer period than might be expected from a window in the same position. The appellant's offer of a privacy screen is noted, but this would not prevent views into the adjacent garden without compromising the use of the terrace.
13. To the ground floor, one terrace would be at a similar location and level to the existing small rear patio area, and a further terrace would be provided outside the proposed kitchen/family room. Given the separation from the adjacent houses either side, together with the screening provided by the boundary fence with No. 11, the ground floor terraces would not harm the privacy of neighbours.
14. The Council also refer in their reason for refusal to the proposals being overbearing to neighbouring occupiers. Given that the overall height of the replacement dwelling would not increase, and the additional bulk at ground floor and basement would largely be screened by the boundary fences, there would not be an unacceptable loss of outlook to neighbouring dwellings.
15. The Council is concerned that the basement impact assessment submitted with the appeal scheme does not address the mitigation of construction impacts arising from, in particular, the proposed basement excavation. I understand that this would usually be required by the Council at application stage. However, I have no substantive evidence before me that would lead me to conclude this matter could not be dealt with by an appropriately worded pre-commencement condition requiring a construction management plan to be agreed with the Council.
16. I have found in favour of the appellant in terms of the effect of the ground floor terrace, construction impacts and outlook, and the proposal therefore complies with Local Plan Policies DM9 and DM12(c) in these regards. However, these matters weigh neither for nor against the proposal. Notwithstanding this, the

first-floor terrace would be unacceptably harmful to the privacy of the occupiers of No. 11 Bracken Drive, contrary to the requirement of Local Plan Policy DM9 which expects proposals to, amongst other things, avoid overlooking and loss of privacy detrimental to the living conditions of neighbouring occupiers.

*Living conditions of future occupiers*

17. The updated drawings add an additional rooflight to the room labelled 'bedroom 2' at first floor level. The room would be served by two rooflights which would be capable of providing adequate natural light to the bedroom due to their size relative to the room. The proposal therefore is in line with the aims of Local Plan Policy DM9 to integrate occupier comfort and wellbeing within the design and layout. I therefore conclude that the scheme would provide acceptable living conditions for future occupiers.

**Planning Balance and Conclusion**

18. I acknowledge that the appeal proposal would provide a good standard of accommodation in line with the standards set out in the development plan. Furthermore, the appeal proposal would involve the redevelopment of an existing small, brownfield site, for which there is both local and national policy support. However, the harm I have identified to the character and appearance of the area and to the living conditions of neighbouring properties outweighs the identified benefits and draws the proposal into conflict with the development plan read as a whole.
19. The material considerations in this case do not indicate that the decision should be taken otherwise than in accordance with the development plan. The appeal should therefore be dismissed.

*L Francis*

INSPECTOR