



# Appeal Decision

Site visit made on 16 January 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **1<sup>st</sup> February 2024**

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**Appeal Ref: APP/J1535/W/22/3313750**

**Land adjoining 33 Maypole Drive, Chigwell, Essex IG7 6DE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mr Colin Stone against Epping Forest District Council.
  - The application Ref EPF/1229/22 is dated 25 May 2022.
  - The development proposed is the construction of 1 no. 3 bedroom bungalow on a vacant plot of land adjacent to 33 Maypole Drive.
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## Decision

1. The appeal is dismissed and planning permission for the construction of 1 no. 3 bedroom bungalow on a vacant plot of land adjacent to 33 Maypole Drive is refused.

## Application for Costs

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

## Preliminary Matters

3. A revised National Planning Policy Framework was published on 19 December 2023 and updated on 20 December 2023. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.
4. Since the appeal was submitted, Epping Forest District Council Local Plan 2011-2033 (the LP) was adopted on 6 March 2023. Therefore, the appeal will be considered against the policies from this recently adopted plan.

## Main Issues

5. Although a formal decision was not issued, in their statement, the Council have indicated that it would have refused planning permission for the proposed development. They have outlined that their main concerns relate to the previous grounds for refusing planning permission, particularly highlighting the impact of the proposed development on the character of the area in relation to the siting and form of the proposed development in the context of the

streetscene. Therefore, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

## **Reasons**

### *Character and Appearance*

6. The appeal site forms a relatively large lawned garden area to the side of the dwelling at 33 Maypole Drive. It is currently free from built form and surrounded by timber fencing. The surrounding area is a residential cul-de-sac largely comprised of uniform two-storey dwellings and single storey garages with open frontages and enclosed gardens to the rear.
7. The proposal would be located within an existing residential garden area, where an ancillary outbuilding may be expected. However, due to its substantial size and other features which accompany a standalone residential property, such as a separate access, parking and garden, the proposed building would not appear as a subservient outbuilding to the dwelling at 33 Maypole Drive.
8. The proposed development would be located on a large plot which has ample space for a separate dwelling of this size, without appearing cramped, and would use materials intended to match existing development in the area. Nevertheless, it would be significantly different to the style and layout of the existing residential properties in the immediate area, as a single storey dwelling, set behind a high boundary fence with most of its usable garden space located to its side. Therefore, it would appear at odds with other development in the streetscene.
9. Although the front elevation of the proposed dwelling would be set back from the road and in line with the terrace of properties to the south, it would sit quite substantially forward of an adjacent garage outbuilding and the properties at the end of the cul-de-sac. Its siting, along with its incongruous design and layout, would therefore appear overly prominent and out of keeping with the prevailing pattern of development within Maypole Drive.
10. The proposed dwelling would be partially obscured from public view by the existing boundary fence. However, due to its height above this fence, the gap in the fence for the proposed access and the overall mass of the building, it would still be a highly visible addition within the streetscene. The incongruous nature of the proposed development, as set out above, would therefore have a significant impact upon the character and appearance of the area. Whilst the appeal site is already somewhat of an anomaly within the streetscene, the proposed development currently before me would not overcome this.
11. It is noted that the proposed dwelling would be slightly lower in height than an adjacent detached garage outbuilding in front of 26 Maypole Drive. However, the proposal would have a significantly larger footprint than this garage and would be greater in width. Therefore, it would appear more prominent in the streetscene and less akin to an ancillary outbuilding when compared to this neighbouring building.
12. There have been a number of previous applications for the appeal site, some of which have found various aspects of the design acceptable. Nonetheless, the proposed development before me is different in design from these previous iterations. Therefore, it has been considered on its own merits. Similarly, a development approved at 4 Doves Cottages, referenced in a previous appeal

decision<sup>1</sup> for 26 Maypole Drive was found to appear as a subservient residential outbuilding and as such is not comparable to the appeal proposal.

13. Therefore, for the reasons given above, I conclude that the proposed development would harm the character and appearance of the surrounding area and would conflict with Policy DM9 of the LP. This policy seeks to ensure that development proposals relate positively to the locality having regard to the form, scale and massing around the site and the rhythm of any neighbouring or local plot and building widths.

### **Other Matters**

14. The appellant has stated that the Council cannot demonstrate a five-year supply of deliverable housing. No information has been provided to support this or outline the extent of the shortfall but, if this is the case, on this basis the test in paragraph 11(d) of the National Planning Policy Framework (the Framework) should be applied.
15. The proposed development would add to the overall housing land supply and would make a small contribution to the Government's objective of significantly boosting the supply of homes, providing an additional dwelling in a sustainable location which could be suitable for those with accessibility requirements or the elderly. However, the benefits derived from an individual dwelling would be limited and therefore this carries limited weight. Therefore, even if there is a significant shortfall in the housing land supply, given the harm I have identified, the adverse impact of granting planning permission would significantly and demonstrably outweigh the limited benefits of one dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.
16. It is noted that it may be possible to construct the proposed building under permitted development rights for use ancillary to the main dwelling. Although there appears to be no intention to construct such a building at this point in time. However, a standalone dwelling would have a different impact on the character and appearance of the area to a garden outbuilding including a separate access, parking area and an increased level of use. Therefore, it is not directly comparable and does not set a precedent for the appeal proposal before me.
17. The appellant has raised concerns that the Council failed to consult local residents and the Parish Council regarding the proposed development. However, I find no evidence to suggest that this is the case and the Council have confirmed that the necessary consultations took place and the comments received from local residents were relevant to the current appeal proposal. Furthermore, local residents were able to provide their comments as part of this appeal.
18. The appeal site is located in close proximity to the Epping Forest Special Area of Conservation (SAC) and the Council have indicated that additional vehicle movements from the proposed development would require adequate mitigation measures to be put in place to counteract the adverse effect on the SAC, outlining the measures and financial contributions in accordance with the

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<sup>1</sup> APP/J1535/W/21/3286646

Interim Epping Forest Air Pollution Mitigation Strategy (2020). A letter was submitted by the appellant, as part of this appeal, stating that they would make the necessary financial contributions, however no formal unilateral undertaking or section 106 agreement has been provided to secure this.

19. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

### **Conclusion**

20. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

*E Grierson*

INSPECTOR