



Appeal Decision

Site visit made on 20 October 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2020

Appeal Ref: APP/J1535/W/20/3248507

Land Adjacent to 26 Maypole Drive, Chigwell IG7 6DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by J Oddi against the decision of Epping Forest District Council.
 - The application Ref EPF/1879/19, dated 30 July 2019, was refused by notice dated 9 December 2019.
 - The development proposed is described as “demolish the existing garages and erect a single storey shallow pitched roofed detached two person dwelling”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site has been the subject of previous appeal decisions¹ which I have had regard to insofar as they are relevant to the development before me.
3. The Epping Forest District Council Local Plan Submission Version 2017 (the LPSV) is currently under examination. However, as the LPSV has reached an advanced stage and information has been provided as part of the appeal on the examining Inspector’s advice regarding the main modifications to the plan, I have attached moderate weight to its emerging policies.

Main Issues

4. The main issues in this appeal are the effect of the development on the:
 - character and appearance of the area;
 - living conditions of adjoining occupiers with particular regard to outlook and light to 26 and 28 Gravel Lane;
 - living conditions of future occupiers of the dwelling with particular regard to private amenity space; and,
 - Epping Forest Special Area of Conservation (SAC)

Reasons

Character and Appearance

5. The appeal site comprises a double garage that is located at the northern end of Maypole Drive, which is a cul-de-sac and contains a mixture of two storey

¹ APP/J1535/W/15/3137118, APP/J1535/C/15/3137218 and APP/J1535/W/18/3194953

- dwellings which are arranged in terraces at its entrance. Towards the end of the cul-de-sac the dwellings tend to be arranged as semi-detached properties with garaging between. The rear gardens of some of the properties along Gravel Lane also back onto the northern part of Maypole Drive.
6. Maypole Drive has a pleasant suburban and spacious quality which is reinforced by the layout of the dwellings, especially those that are sited towards the end of the cul-de-sac and adjacent to the turning head and appeal site. The properties here are set back from the road with private parking areas to the front and enclosed garden areas to the rear.
 7. The appeal site contains a single storey double garage which is constructed of brick under a crown style roof. The proposal seeks to demolish the garage and replace it with a one bedroom, single storey dwelling that would be constructed with two distinct wings and a recess towards the centre to allow parking for one vehicle. The proposed dwelling would be wider than the existing garage, covering the majority of the space within the site, leaving an area to its side which would be used as a private amenity area.
 8. The proposal would be sited along the shared rear boundary to 26-30 Gravel Lane, leaving only a small gap between its rear elevation and the fence that separate the sites. The remaining elevations would also be sited extremely close to its boundaries, leaving very little space about the building. Although a garden area would be provided to the north of the building, given the spatial limitations of the appeal site, the proposal would appear as a cramped and somewhat contrived form of development in comparison to the more spacious development that exists within Maypole Drive.
 9. Furthermore, the proposal would be significantly wider than the existing garage and would appear as a somewhat squat and incongruous form of development in comparison to the built environment in the vicinity, which is largely typified by two storey dwellings that are set back from the road with decent sized rear gardens. Moreover, although the development would comply with the requirements of the NDSS², it would nonetheless fail to reflect or respect the suburban grain of the area and would be quite out of keeping with its established character. This harm would be clearly visible from Maypole Drive and from properties that surround the site.
 10. I acknowledge that there is a variety in the layout of dwellings in the area, such as the Victorian houses to the east. However, I am not persuaded that the proposal would reflect the development along Gravel Lane, which again is typified by two storey dwellings with rear gardens. In addition, the proposed dwelling would not be visible from Gravel Lane and relates squarely to the street scene on Maypole Drive. Furthermore, I do not accept that the garden to the east of No. 33 Maypole Drive breaks up the pattern of development to the extent that the proposal would not be out of keeping with other dwellings within the vicinity of the appeal site.
 11. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policies CP2, DBE1 and DBE9 of the Epping Forest District Council Local Plan 1998 and Alterations 2006 (the Local Plan) and Policies DM9 and DM10 of the LPSV and paragraph 127 of the National Planning Policy Framework (the Framework) which seek, amongst

² Technical housing standards – nationally described space standard March 2015

other things, to ensure that developments respect their setting, maintain and improve the character of the urban environment and the visual amenity of neighbours.

Living Conditions – Adjoining Occupiers

12. The proposal would be sited to the rear of Nos. 26 and 28 Gravel Lane which are positioned at a lower level than the appeal site. Whilst the appellant argues that the proposed dwelling would be no more harmful than the existing garage building, the proposal would be a much larger building, sited very close to its rear boundary and along a greater length. With an overall height of some 3.5m, coupled with the difference in levels between the properties on Gravel Lane, leads me to conclude that the proposal would be an unneighbourly form of development that would create an unacceptable level of enclosure, thereby harming the outlook that the occupiers of Nos. 26 and 28 currently enjoy.
13. Although the appellant accepts that loss of light would occur to No. 28, it is considered to be minor. However, the width of the proposal across the site is likely to result in a loss of light to the rear garden of No. 26, which would be unacceptable given its modest size. Whilst I acknowledge that any loss of light to No. 28 would be more limited, I am nonetheless not persuaded that the development would not result in unacceptable loss of light to the garden areas of Nos. 26 or 28 Gravel Lane, which would make their private amenity areas a less enjoyable place to use.
14. Thus, the development would result in harm to the living conditions of adjoining occupiers. It would be in conflict with Policies DBE2 and DBE9 of the Local Plan, Policies DM9 and DM10 of the LPSV and paragraph 127 of the Framework which seek, amongst other things, to ensure that developments do not result in excessive loss of amenity for neighbouring properties.

Living Conditions – Future Occupiers

15. Policy DBE8 of the Local Plan requires all new residential development to provide amenity space. Although it is evident that Policy DBE8 does not prescribe the amount of amenity space that should be provided, it nonetheless has to be of a size and shape which enables reasonable use.
16. The development proposes a garden area to the side of the dwelling which is marked as a patio area on the submitted plans. Although the amenity area would be level and is likely to receive a reasonable amount of sunlight, it would be triangular shape and limited in size. The quality of the amenity space would be further reduced through the proposed fencing, landscaping and its use for the storage of bicycles. This leads me to conclude that the space would be rather enclosed and its quality and quantity somewhat lacking. Moreover, although the dwelling would be a two person unit, it does not reduce the need to provide quality private amenity space for its occupiers.
17. Thus, the development would result in harm to the living conditions of future occupiers by failing to provide adequate amenity space. It would be in conflict with Policies CP2 and DBE8 of the Local Plan, Policy DM10 of the LPSV and paragraph 127 of the Framework which seek, amongst other things, that developments provide private amenity space that is of a high standard and which enables reasonable use.

Epping Forest SAC

18. The Council confirms that there is currently no way forward on securing appropriate mitigation from small scale proposals such as the proposed development where, in combination with other developments, they are likely to have a significant effect upon the Epping Forest SAC European protected site, due to reduced air quality.
19. However, given my findings on the substantive matters before me, I do not intend to consider this particular issue further because, should there have been an agreed way forward in enabling this scheme to mitigate for air quality impacts so as to satisfy the EU Habitats Directive, this would not have altered the harm I have already identified above.

Other Matters

20. I acknowledge that the proposal would be a low cost dwelling, suitable for disabled persons and close to public transport links. I also accept that the development would deliver housing on a small windfall site which could be built-out quickly, boosting the Council's housing land supply position in accordance with the policies of the LPSV. In addition, I also acknowledge that the Framework states that previously developed, or brownfield land, should be used as much as possible. However, I do not find the site to be suitable for the development and thus, while noting the benefits that would result in this respect, I do not consider that either individually or cumulatively they outweigh the harm identified above.
21. Although the appellant states that a development for three garages was recommended for approval by officers, it remains that the site does not have permission for such a development. Moreover, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.
22. I note that representations were made by a local resident raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

23. The appellant suggests that the policies which are the most important for determining the application are considered to be out-of-date. In such circumstances, the tilted balance at paragraph 11 d) of the Framework requires that, in the circumstances of this case, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. In this case, the development would contribute towards boosting the supply of housing in the District, there would be social benefits through the provision of a new dwelling and some economic benefits through its construction and in the future when occupants could be expected to be economically active and to contribute to the support of local businesses and services. However, given the quantum of development, I afford these benefits limited weight in favour of the appeal.

25. However, I have found that the proposal would be contrary to the development plan in that it would result in material harm to the character and appearance of the area, the living conditions of adjoining occupiers and the living conditions of future occupiers of the dwelling, to which I afford significant weight. Moreover, even if the Council is unable to demonstrate a five year housing land supply and whether or not the policies from the development plan which are the most important for determining the appeal should be considered out-of-date, the harm I have found is serious and, in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development as envisaged by the Framework does not apply in this case. There are no other material considerations that indicate a decision other than in accordance with the Development Plan.
26. Thus, for the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR