

Officer Report

EPF/1017/25

Reserved Matters application for use of land for the erection of three detached dwellings. Existing dwelling to be removed. (Outline application EPF/2769/18 allowed on appeal)

93, Manor Road, Chigwell, IG7 5PN

Site and Surroundings

The application site is a large 'L'-shaped parcel of land currently occupied by a single detached dwelling that fronts Manor Road. It is located within a large perimeter block formed by Manor Road, Fencepiece Road, The Shrubberies, and Bracken Drive, and which has little development within it. The proposal would see the demolition of the existing house and an indicative layout suggests its replacement with a building to the front of the site and a vehicular access adjacent to the eastern boundary that would provide access to 2 additional properties to the rear.

The site is dominated by a number of mature and protected trees and it is noted that the general locality of the site was formerly part of Hainault Forest. The trees that are within the appeal site and in neighbouring gardens to the south, east, and west make a positive contribution to these amenity spaces. They also contribute to the wider locality due to glimpsed views between and over existing buildings.

Outline planning permission EPF/2769/18 was allowed on appeal (reference: APP/J1535/W/22/3294816) dated 5 June 2023 for the construction of three houses with all matters reserved.

Description of Proposal

The current application: EPF/1017/25 seeks the approval of all Reserved Matters following Outline Approval of the above appeal decision: APP/J1535/W/22/3294816. The reserved matters for which approval is being sought are access, appearance, landscaping, scale, and layout for the construction of three dwellings.

Relevant Planning History

- EPF/2669/17 - The development proposed is 3 No detached dwellings and associated works. Refused. Dismissed on Appeal
- EPF/2769/18 - The development proposed is use of land for the erection of three detached dwellings (Existing dwelling to be removed). Refused. Allowed on Appeal

Development Plan Context

- Epping Forest Local Plan 2011-2033 (2023)
- National Planning Policy Framework (NPPF, 2024)
- Planning Practice Guidance (PPG)

Consultation Response

Essex County Council Highways – No objection subject to conditions to regarding to parking

EFDC - Land Drainage Team - No objection but require further clarification on some points regarding the submission

EFDC - EH (Contaminated Land) – No objection subject to conditions

Natural England – NE has no comments to make on this application

Tree and landscaping Officer – No objection subject to conditions. Need to highlight to the Applicant that there are TPOs on this site.

Chigwell Parish Council: No reply at the time of writing the officer report.

Letters of Representation

Sent: 37

Site Notice: Yes

Received: Two letters of objection received. The reasons for objection are listed below:

- Loss of privacy to No. 91 and No. 97 Manor Road from openings
- TPOs
- Impact on highway and potentially cause obstruction
- The development would impact on the structural integrity of the tiered garden at No, 91 Manor Road
- Loss of light
- Overbearing and overshadowing of garden
- No details on plans to show site levels

Main Issues and Considerations:

- Principle of Development
- Appearance
- Access
- Scale
- Layout
- Landscaping
- Epping Forest Special Area of Conservation (EFSAC)

Principle of Development

Outline planning permission was allowed on appeal (reference: APP/J1535/W/22/3294816) on 5 June 2023 for the construction of three house on this application site. Therefore, the principle of development has been established.

This application is a Reserved Matters (RM) application focuses on specific details like appearance, access, landscaping, layout, and scale, but within the framework established by the Outline Permission. The RM will be discussed below.

It is important to note that the details of the reserved matters application must accord with the outline approval, including any conditions attached to the permission. If proposals have materially altered the Applicant will need to reapply for outline or full planning permission for the site.

In this instance, it is important to note that the application site, edged in red, in this RM application is much larger and does not marry up with the application site, edged in red, outline planning approval EPF/2769/18 as shown below. The RM application includes additional land to the south of Plot 2 which will form a garden area.

EPF/2766/18 Outline Approval allowed by PINS - APPN1626/W/22.3264815



1:1250 Site Location Plan

EPF/1017/25 - Location Plan - Reserved Matters



Outline planning permission establishes the fundamental principles of development for a site, including its boundaries and general layout. As the site area is different and much larger, the RM application cannot be considered for the development of three houses as it does not follow on from the Outline Approval EPF/2769/18. Therefore, a fresh outline planning application or a full planning application should be submitted for the development of three houses on this site.

The following Reserved Matters to be discussed:

Scale

The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. At a local level, Policy DM9 of the Epping Forest Local Plan emphasises that development proposals must be design-led and relate positively to their locality. This includes building heights, the form, scale, massing and the prevailing character around the site.

In terms of scale of the three houses, the outline approval had provided illustrative floor area for each dwelling proposed on this site (EPF/2769/18 - Drawing Ref: 1470-02E).

- Plot 1 – Detached house – 215m²
- Plot 2 – Detached house – 318m²
- Plot 3 – Detached house – 263m²

In this RM application, the submitted drawings shows:

- Plot 1 – Detached house – 230m²
- Plot 2 – Detached house – 358m²
- Plot 3 – Detached house – 344m²

- Plot 1 – 6.9% increase
- Plot 2 – 12.6% increase
- Plot 3 – 30.7% increase

The above figures in the RM application do not include the detached garages proposed and raised decking areas for each dwelling (Plot 2 and Plot 3) as each plan clearly stipulates the Gross Internal Area (GIA) only.

It is considered that the increase in scale, bulk, mass and height of the new dwellings would adversely impact on the character and appearance of the area by reasons of incongruous and overdevelopment of the site. Whilst it is noted that Plot 2 and Plot 3 are both set back from the streetscene and are partially screened by mature trees, these

new dwellings will be noticeable, visually impact, and harmful to the amenity of neighbouring residential properties.

The Council has taken into account PINS appeal decision that the development of the site could preserve the character and appearance of the area subject to the dwellings being suitably designed at the RM stage. In this instance, the dwellings: Plot 2 and Plot 3, are considered to be overtly large, cramped in appearance and disproportionate in this backland setting thus relating poorly to the site and its immediate surroundings. The development is therefore contrary to Policy DM9 of the adopted Local Plan and the NPPF (2024).

Appearance

The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed

communities. Good design should be indivisible from good planning. It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. At a local level, Policy DM9 of the Epping Forest Local Plan emphasises that development proposals must be design-led and relate positively to their locality. This includes building heights, the form, scale, massing and the prevailing character around the site.

The Council is not disputing on the appearance of the new dwellings as they appear to commensurate with the variety design and appearance of existing dwellings that fronts onto Manor Road. However, as Plot 2 and Plot 3 are set back from the highway, the appearance of the new dwellings on this backland site are considered out of character in the locality by reasons of the scale, height, mass and bulkiness. The increased floor spaces and associated domestic paraphernalia also contributes to the cramped form of development on this site and for this reason has resulted in an unacceptable form of development contrary to Policy DM9 of the adopted Local Plan and the NPPF (2024).

EPF/1017/25 - Plot 2 and Plot 3



There are no objections to the external materials proposed and to be used in the construction of these dwellings.

Layout

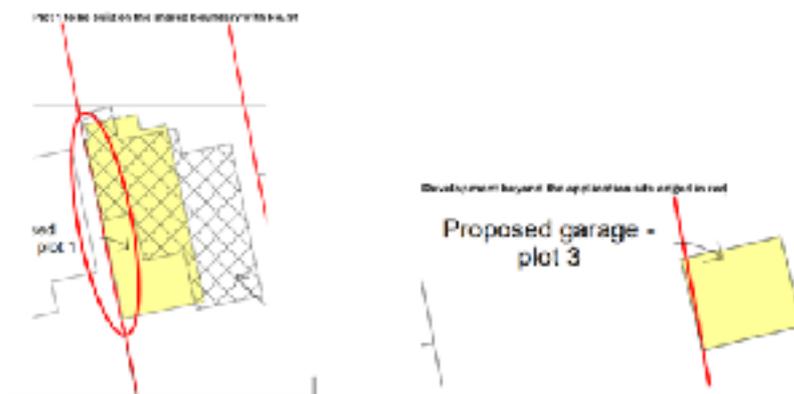
As part of the outline planning permission, the Planning Inspectorate (PINS) had considered the backland nature of the development as shown on the illustrative Block Plan below. It was concluded that *“the backland development would not be harmful in this instance subject to suitable details of design and layout being provided at the reserved matters stage”* thus having *“an acceptable effect on the character and appearance of the area. In this regard it would comply with the character and context requirements of Policy DM9 (High Quality Design)”*.

EPF/2769/18 – Illustrative layout



The above illustrative Block Plan in the outline approval EPF/2769/18 shows the dwellings are positioned at least 1 metre (or more) away from the shared boundaries with neighbouring residential properties. In the RM application, the dwellings are larger, and these gaps no longer appear to exist as the dwelling, for example Plot 1, is positioned right on the shared boundary with No. 91 Manor Road. In some cases, the development i.e. the detached garages are on land that is not within the Applicant's ownership (see below – Garage on Plot 3). This is not considered acceptable or neighbourly form of development.

The layout is not comparable to the illustrative Block Plan considered by PINS as the increased built form of development on this site would harm the character and appearance of the area, contrary to Policy DM9 of the adopted Local Plan and the NPPF (2024).



Landscaping

The RM application is supported by an Arboricultural Method Statement, Impact Assessment and Tree Protection Plan in Accordance with BS 5837:2012 prepared by South Oaks Arboricultural Consultancy and a Landscape Strategy Proposals Plan - 1060-LA-P-01 Revision A.

Whilst the Tree and Landscaping Officer had raised no objection to the submission, it was highlighted that the Arb Report only notes one Tree Preservation Order (TPO/EPF/30/90). There is another pertinent to this site – Ref: TPO/EPF/47/88. The Council therefore requested that the Applicant (and any future owners) note T22, T23 & T24 (as numbered in the Arboricultural Report) are also protected. Any future works to protected trees, not already detailed in the Arb Report, will require prior permission.

The above can be dealt with by suitably worded conditions and informative.

Access

The RM application is accompanied by a Transport Statement, prepared by DW Transportation Ltd. Whilst the access and egress point off Manor Road has been moved to the eastern corner of the site, the supporting drawings show that vehicles could access and egress the site in a safe manner.

ECC Highways has assessed the RM application and raises no objection to the development proposal subject to the imposition of conditions and informative should the application be approved. The Council therefore accepts the access and egress point to the site.



In the outline application, the Council had initial concerns regarding the length of the internal access route which runs parallel and down the entire length of the shared boundary with No. 95 Manor Road serving Plot 2 and Plot 3. It was considered that the length of the internal access route of more than 65 metres in length, to serve Plot 2 and Plot 3 located at the back of the site, would result in a serious reduction in the living conditions of No. 95 Manor Road by reason of, the increased level of vehicle movements, noise, and disturbance associated with such movements running along the entire shared boundary with No. 95 Manor Road.

Based on the illustrative Block Plan at that time, the Planning Inspector was aware that the internal layout, as shown on the submitted plans, was the only route to Plot 2 and Plot 3 positioned at the rear of the site and as such allowed the appeal. Therefore, to refuse the RM application based on the access and internal layout cannot be justified in this case. On balance, the development would accord with Policies T1 and DM9 of the Epping Forest District Local Plan 2011-2033 (2023) and the National Planning Policy Framework (2024).

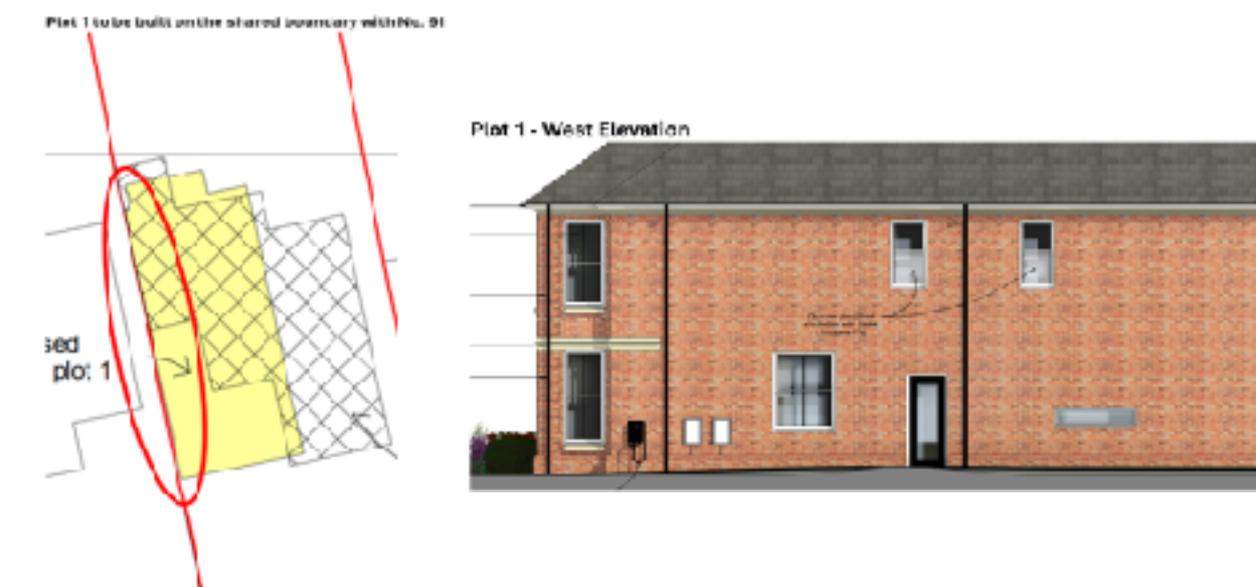
Other Considerations concerning each Plot

Plot 1

Based on the submitted drawings, the Council presumes that the shared boundary wall will be retained between No. 91 Manor Road and Plot 1. It is noted that the new dwelling will be constructed right on the shared boundary with No. 91 Manor Road. At ground floor level, west elevation of Plot 1, it shows a window serving a study, a window serving the den, and a window serving the kitchen / open plan dining / living room area. A door is also proposed to serve the utility room.

It is important to note that all three of these window openings will be facing directly onto a wall. This will result in a poor outlook and living conditions for the future occupiers of Plot 1. Furthermore, the door proposed for the utility room does not appear to serve a purpose as there will be no room for side access to this door. Utility boxes and EV Charging Point cannot be installed on this elevation as these services will encroach onto neighbouring land as shown below.

The design of Plot 1 is rather confusing and poorly executed and should therefore be refused, contrary to Policies DM9 and DM10 of the adopted Local Plan.



Plot 2

The first-floor balcony on the north elevation could potentially result in overlooking and loss of privacy to the existing occupiers at No. 95 Manor Road as existing trees will be removed to serve the development of Plot 2. This is not acceptable as existing occupiers are entitled to a greater degree of privacy to their rear garden boundary. The development is therefore contrary to Policy DM9 of the adopted Local Plan and the NPPF (2024).



Plot 3

The submitted floor plans for Plot 3 does not appear to marry up with the Block Plan. The Council cannot assess development proposal due to the inconsistency of the submitted plans as shown below.



The first-floor balcony on the north elevation of Plot 3 could potentially result in overlooking and loss of privacy to the existing occupiers at No. 95 Manor Road as trees will be removed to facilitate the development of Plot 3. This is again unacceptable.

Epping Forest Special Area of Conservation (EFSAC)

RESIDENTIAL APPLICATIONS: The Council's Interactive Map shows that the application site lies within 0km-3km radius of the Epping Forest Special Area of Conservation ("EFSAC").

A large part of the Epping Forest contains a Special Area of Conservation (SAC) which has been identified primarily for its value in respect of beech trees and wet

and dry heaths and for its population of stag beetle. As an internationally important site it is afforded the highest level of protection due to its habitats and species that are vulnerable or rare within an international context.

The Council, as a competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended), has a duty to ensure that plans and projects for whose consent it is responsible will not have an adverse effect on the integrity of these designated sites either alone or in combination with other plans and projects.

The council has identified 2 main issues (known as 'Pathways of Impact') that are currently adversely affecting the health of the Epping Forest:

- The first is recreational pressure. Surveys have demonstrated that most visitors live within 6.2km of the Epping Forest. As new residential development within 6.2km is likely to result in more people visiting the Epping Forest on a regular basis this will add to that recreational pressure.
- The second issue is atmospheric pollution which is caused primarily by vehicles travelling on roads in close proximity to the Forest emitting pollutants (Nitrogen Dioxide and Ammonia). Development proposals (regardless of their type, size and location within the district) which would result in even an increase in just one additional vehicle has the potential to contribute to increases in atmospheric pollution within the Epping Forest.

Conclusion of EFSAC:

During the outline stage of the application, a Section 106 planning obligation was completed and formed a part of the appeal APP/J1535/W/22/3294816. As such the RM application proposal would not have an adverse effect on the integrity of the EFSAC.

Biodiversity Net Gain (BNG)

Biodiversity Net Gain (BNG) is mandatory from 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). The legislation states that developers must deliver a BNG of 10%. This means a development will result in more or better-quality natural habitat than there was before development.

As outline planning permission was allowed prior to 12 February 2024, the provision of BNG for the development of this site would therefore be exempt.

Other Material Considerations – Case Law relating to Reserved Matter Applications

Case law (Crystal Property (London) Ltd v (1) SSCLG (2) LB Hackney, held that the Inspector had not misunderstood the nature of the application and had not predetermined any of the reserved matters but had simply used the illustrative drawings, as he was entitled to, as an aid in determining whether the parameters of the development as applied would be acceptable.

In that case, the Inspector found that the proposal would have an unacceptable effect on the character and appearance of the surrounding area because of its scale. The Inspector reached his conclusions having regard to the illustrative drawings. The developer challenged the Inspector's decision on the grounds that he had wrongly

relied upon the illustrative drawings when all of the details of the proposed development were reserved.

Based on the above, and having regard to Condition 2 of the outline approval, it is recommended that the current application is refused as a result of its lack of conformity with the outline planning permission which exists and the resultant impact of the development due to the increased application site area, scale, height, mass, bulk and intrusion of built form of development on this backland site.

Conclusion

The proposal does not conform with the outline planning permission reference EPF/2769/18 for which approval is sought for the matters reserved as part of that application. Furthermore, the drawings submitted as part of the RM application are inconsistent with each other and is confusing.

In addition to the above, it is considered that the development proposed of three dwellings of such size, bulk, height, scale, and massing would harm the character and appearance of the area. The balconies proposed on Plot 2 and Plot 3 would result in loss of privacy and overlooking to neighbouring properties, contrary to Policies DM9 and DM10 of the adopted Local Plan and the NPPF (2024) and is recommended for refusal on this basis.

The internal access route leading to Plot 2 and Plot 3 would also harm the living conditions of No. 95 Manor Road by reasons of noise and disturbance.