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# Appeal Decision

Site visit made on 24 July 2018

**by Martin Chandler BSc MA MRTPI**

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

**Decision date: 4 September 2018**

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**Appeal Ref: APP/J1535/W/18/3196857**

**21 Princes Close, North Weald Bassett, Epping, CM16 6EN**

- 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 Mr R Hirons against the decision of Epping Forest District Council.
  - The application Ref EPF/2771/17, dated 11 October 2017, was refused by notice dated 7 February 2018.
  - The development proposed is erection of a detached two bedroomed dwelling with associated car parking and new access on to the High Road.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. During the course of the appeal, the revised National Planning Policy Framework (the Framework) has been published. Both main parties were given an opportunity to comment on any relevant implications for the appeal, and any comments received have been taken into account in my reasoning.

## Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring properties with particular regard to outlook.

## Reasons

4. The appeal site forms part of the rear garden serving 21 Princes Close. The garden runs towards High Road to the east of the appeal site and from which vehicular access would be provided. Planning permission was granted at appeal (ref: APP/J1535/W/15/3139019) for the erection of a single storey dwelling in a similar location and accessed in the same manner. This proposal would see an increase in the ridge height of the building to facilitate accommodation within the roof space. It would also have a pitched roof with gable ends as opposed to the shallow pitched, hipped roof of the consented scheme.
5. Saved Policy DBE9 of the Epping Forest District Adopted Local Plan (1998) (LP) refers to the visual impact of development. It does not contain reference to specific standards against which to assess proposals but the supporting text states that "*visual impact involves an assessment of the effects of scale,*

*proportion, siting, massing, height, orientation and roof-line*". The text goes on to state that each case has to be judged on its individual merits.

6. The proposed dwelling would be located close to the rear boundary of the garden to the rear 19–20 Cunningham Close. When viewed from within this garden, the gable end of the proposal would span much of the width of the rear boundary. Whilst the existing boundary fence would obscure the lower section of the building, the increased ridge height and subsequent mass of the gable end, would create an overbearing and oppressive relationship. When this is combined with the proximity of the proposed dwelling to the rear boundary, the proposal would dominate the outlook from the garden of 19 – 20 Cunningham Close and therefore would have an unacceptably harmful effect on living conditions.
7. In relation to the garden space to the rear of 21-22 Cunningham Close, this would be more removed from the proposed building. As a result, the outlook would primarily be towards the car parking area rather than the large gable end of the proposal. Whilst the building would be seen from the garden, it would be much less imposing and the outlook from the garden would be significantly less compromised. The effect on the living conditions of these properties would therefore be acceptable.
8. Furthermore, in relation to the adjoining dwelling, 22 Princes Close, I observed on my site visit that this property would have a very different relationship with the proposed dwelling. Whilst the dwelling would be located close to the shared side boundary, the immediate effect of the proposal would be towards the end of the relatively long garden and the outlook from the property itself would not be unduly harmed. I am therefore satisfied that the effect on the living conditions of the adjoining property would be acceptable.
9. In their statement, the Council make reference to loss of sunlight as a result of the proposal although this not being directly referenced in the reason for refusal. The appeal building would be located to the south of the properties in Cunningham Close. Despite the presence of a large Oak Tree to the east, the aspect to the west is relatively open. I am therefore satisfied that the proposal would not result in an unacceptable loss of sunlight to the properties in Cunningham Close. Furthermore, the building would be located to the north of 22 Princes Close so there would be no effect on sunlight received by this property.
10. I am also satisfied that sufficient levels of daylight to adjoining residents would still be achieved despite the overbearing relationship that would be created. This is because of the open space to the west of the appeal site and the nature of the pitched roof which would allow daylight around it.
11. Finally, I note the comments in the allowed appeal in relation to the effect on living conditions of the proposed single storey dwelling. However, as identified above, this proposal would be materially different to that scheme and would create a very different relationship with the neighbouring properties. I am therefore satisfied that I am not bound by the findings of a previous Inspector in relation to the effect on living conditions.
12. For the reasons identified above, I conclude that the proposal would have a harmful effect on the outlook from the garden of 19 – 20 Cunningham Close. Consequently, the proposal fails to accord with saved policies DBE2 and DBE9

of the LP which require new buildings to not have a detrimental effect upon the amenity of existing neighbouring properties with particular regard to visual impact.

### **Other matters**

13. The appellant contends that the design of the proposal would represent a visual improvement on that which has consent. I accept that the proposal picks up on the architectural themes of the houses opposite the site but the previous proposal was also deemed to be acceptable in terms of its effect on the character and appearance of the area. The proposal would also be successful in meeting space standards and would not affect neighbouring properties in terms of noise, smell or other similar types of disturbance and would not give rise to overlooking. The proposal would also make a small contribution to an identified local need for 2 bedroom houses. In this respect it would represent an efficient use of land.
14. The appellant also makes reference to the presumption in favour of sustainable development at the heart of the Framework. It is suggested that the Council's development plan is out-of-date because it was not prepared with regard to the principles of giving priority to sustainable development.
15. However, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. It is also clear that the presumption does not change the statutory status of the development plan and that due weight should be given to policies and their degree of consistency with the Framework. Based on my reasoning set out above, I am satisfied that the saved local plan policies are consistent with policies in the Framework and that therefore they remain up-to-date and can be afforded full weight.
16. Whilst I have considered the matters outlined above, they do not outweigh the harm that I have identified in relation to the main issue. Accordingly, and as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, there are no material considerations that indicate a decision other than in accordance with the development plan.

### **Conclusion**

17. For the reasons identified above, the appeal is dismissed.

*Martin Chandler*

INSPECTOR