
Appeal Decision

Site visit made on 18 March 2015

by **D J Barnes MBA BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09/04/2015

Appeal Ref: APP/J1535/A/14/3000288
2 Durnell Way, Loughton, Essex IG10 1TG

- 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 Brian Phillips against the decision of Epping Forest District Council.
 - The application Ref EPF/1286/14, dated 3 June 2014, was refused by notice dated 3 September 2014.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are (a) the effects of the proposed development on the character and appearance of the streetscene and (b) whether the proposed development would result in satisfactory living conditions for the future occupiers.

Reasons

Character and Appearance

3. The proposed development includes the erection of a dwelling on the footprint of a garage and part of the appeal property's side garden. The property is also sited adjacent to a small landscaped area at the junction of Durnell Way and Newmans Lane within a predominantly residential area of short terraces of 2-storey dwellings. Contrary to the claims of the appellant, the garage does not look out of place at the end of this terrace.
 4. The National Planning Policy Framework (the Framework) does not include garden land within the curtilage of residential properties within the definition of previously developed land. As observed during the site visit, the side garden does make a positive contribution to the private amenity space of the property. However, the development of such land for residential purposes is not precluded by the Framework subject to other policy considerations.
 5. As a matter of principle, by reason of its height, depth, scale and siting, when viewed from the surrounding roads the proposed dwelling would generally
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appear a continuation of the existing terrace. A proposed 2-storey flank wall would be sited adjacent to the landscaped area and, as a matter of principle, its size and bulk would not amount to an unacceptably visually intrusive form of development. The spacious character of the area around the junction would not be materially eroded.

6. Accordingly, by reason of height, depth, siting and scale, no specific conflict with Policy DBE2 of the Epping Forest District Local Plan (including Alterations) (LP) concerning new buildings not having a detrimental effect on existing neighbouring or surrounding properties has been identified. For the same reasons, the development of part of the garden of the host property would not cause harm to the local area and thereby conflict with paragraph 53 of the Framework.
7. However, the design of the appeal scheme would fail to respect the character and appearance of the terrace and the streetscene. The single windows at first floor level would fail to respect the existing rhythm of the fenestration which the front elevation of the terrace possesses. A single storey side triangular shaped addition with a flat roof would project from the predominantly 2-storey flank wall. This element of the appeal scheme would be of a contrived design and appear an incongruous addition to the proposed dwelling that would fail to positively respect the general form, character and appearance of the terrace and the streetscene.
8. For the reasons given, by reason of its fenestration and contrived design, it is concluded that the proposed development would cause adverse harm to the character and appearance of the streetscene and, as such, it would conflict with LP Policy DBE1. This policy requires development to respect their setting in terms of, amongst other matters, siting and detailing and is consistent with the Framework's core principle of securing high quality design.

Living Conditions

9. There is no specific local planning policy concerning the size of private amenity space associated with a dwelling. However, LP Policy DBE8 does require the provision of such space to be of a size, shape and nature which enables reasonable use. Because the proposed dwelling would possess 2-bedrooms it could be occupied by a family and its potential occupancy as a small family house has been referred to by the appellant. Similarly, the host property possesses 3-bedrooms and could also be occupied by a family. Families might reasonably expect a garden capable of being a sitting out area, a place for drying washing and providing some children's play space albeit there is open space within the local area.
10. If the appeal succeeds then the rear gardens of both properties would be limited in size and, particularly in the case of the proposed dwelling, the amenity spaces would be awkward shapes. In my judgement, the proposed sizes and shape of both properties would not enable them to function successfully as private amenity areas for families.
11. The Council has directed me to the preserved text of LP Policy DBE8 which includes reference to rear gardens providing 20sq m for each habitable room exceeding 13sq m. However, the preserved text also refers to circumstances where this standard could be relaxed, including because of the size and/or

disposition of a plot where, in all other circumstances, the proposal would be an acceptable form of development. In this case the proposed development has already been found unacceptable because of its design.

12. The appellant has referred to the size of gardens within other residential developments elsewhere within the District, in particular at Station Road. The drawings for this scheme indicates that the size and shape of the proposed rear gardens would possess a greater ability to function as a private amenity space for a family when compared to the proposed dwelling. In any event, the full detailed planning circumstances of this other scheme have not been provided and this appeal has been assessed on its own circumstances.
13. On this matter it is concluded that the proposed development would fail to provide satisfactory living conditions for the future occupiers and, as such, it would conflict with LP Policy DBE8 and the Framework's core principle of securing a good standard of amenity for all existing and future occupants of land and buildings. No specific conflict has been identified with paragraph 53 of the Framework on this issue.

Other Matters

14. Within urban areas there is an expectation that some overlooking may occur between dwellings and adjacent properties and their curtilages. By reason of the relationship between existing properties and the proposed dwelling, there would be some overlooking but the effect on the privacy of the occupiers of neighbouring properties would not be materially different to the situation which currently exists. However, this does not alter my assessment of the main issues in this case.
15. The appellant has highlighted that the proposed dwelling would meet a housing need identified in the Strategic Housing Market Assessment for family homes. I acknowledge that this would be a benefit of the proposed development but this matter is demonstrably and significantly outweighed by the adverse harm which has been identified. Accordingly, and taking into account all other matters including the Framework's presumption in favour of sustainable development, it is concluded that this appeal should fail.

D J Barnes

INSPECTOR