
Appeal Decision

Site visit made on 29 October 2015

by George Arrowsmith BA, MCD, MRTPI

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

Decision date: 26 November 2015

Appeal Ref: APP/J1535/W/15/3127872
152 High Road, Chigwell, Essex, IG7 5BQ

- 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 T Offord against the decision of Epping Forest District Council.
 - The application Ref: EPF/0073/15, dated 9 January 2015, was refused by notice dated 1 April 2015.
 - The development proposed is the demolition of a large existing dwelling and the erection of a replacement building of 5 luxury apartments with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would, i) have a detrimental impact on the character of the surrounding area and the street scene in particular, ii) be an unsustainable form of development in that it would not be capable of adopting to changing family sizes and compositions and/or, iii) be unacceptably harmful to the amenity of the neighbouring residential property at 150 High Road by virtue of loss of sunlight and overbearing impact.

Reasons

Street Scene and Character of the Area

3. The buildings in the vicinity of the appeal site and on this side of High Road generally consist of large buildings of various designs typically standing in generous plots. Some of the buildings, including 154 High Road, immediately to the north east of the appeal site, are occupied as flats.
 4. The existing 2-storey dwelling takes up about half the site's width. Most of the remainder is filled by an attached garage with a hipped roof. The proposed replacement would have the same eaves and roof height but its 2½-storey form would occupy most of the site's width with the result that it would have a more marked presence in the street scene. This is nevertheless a scene which already includes several imposing properties, many extending over much of their plot widths. Given this existing character I consider that the proposed building, which would be set back from the road behind a landscaped area and would incorporate many design features seen in nearby buildings, would not
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appear out of place. An additional consideration is that the three mature protected horse chestnut trees in the adjoining highway verge would help to soften the building's impact. For these reasons I am satisfied that the proposal would not have a detrimental impact on the street scene or the character of the area. In that regard I consider that it would comply with the relevant objectives of saved policies CP2, CP7 and DBE1 in the adopted Epping Forest District Local Plan and Alterations and the guidance in the National Planning Policy Framework.

Sustainability

5. The Council's justification for claiming that the proposal is not a sustainable form of development is unclear. The reasons for refusal say that the flats are not capable of being adapted to changing family sizes and compositions. There is however some potential for adapting spacious flats to different household sizes. Whilst there is not unlimited potential, limitations are inherent in most dwellings. I see no justification for the view that the scope for adaptation would be especially limited in the proposed development.
6. In their appeal statement the Council make the further claim that that 2-bedroom flats offer little flexibility in an area where family housing is much needed. I do not see a direct link between the need for family housing and the flexibility offered by 2-bedroom flats. The Council have not produced any evidence on the requirement for housing of different types nor have they produced evidence to show that there is an objection in principle to the replacement of a large family house by flats. In conclusion I do not consider that the provisions of local plan policies CP1, CP5 or CP7 have any close relevance to this part of the Council's case or that the proposal would be an unsustainable form of development.

Residential Amenity of 150 High Road

7. My greatest concern is the effect the proposal would have on the residential amenity of the neighbouring property at 150 High Road. I read in the case officer's report that the appellant is able to demonstrate that the proposal "*would achieve a 45 degree angle of outlook from this property at first floor*" and thus that the development "*would achieve the required standard*". I am not provided with any policy document defining the 'standard' and I do not know whether the angle is measured from the centre or nearside edge of the window. I am not provided with any diagram illustrating the angle in this particular case but, from my examination of the submitted plans and the evidence of my site visit, it appears that angle of outlook only marginally exceeds the 45 degree requirement.
8. In considering the impact of the proposal on No 150 it is important to recognise that planning standards are not intended to preserve the outlook that a property might enjoy at a particular point in time. Rather they are intended to ensure that acceptable standards are met and maintained. In this instance I have no doubt that the outlook from No 150's rear windows would deteriorate but, in the context of the Council's standard, I accept that the effect falls within the limit of acceptability. There is however the additional consideration that the wall would be almost directly to the south of the windows so that its effect on the light they receive would be exacerbated.

9. The proposed building would have a greater effect on that part of No 150's garden immediately to the rear of the house and especially the patio which is adjacent to the boundary. Anyone using this area and looking towards the appeal site would face a 2-storey high wall extending the length of the patio at a distance of around 3m from the boundary. For that part of the wall immediately to the rear of No 150 the distance from the boundary would reduce to just one metre. I am aware that the ground level at No 150 is somewhat higher than that at the appeal property but this would only marginally reduce the wall's impact. I am also aware that there is existing boundary landscaping; however this is not necessarily permanent and in any event would obscure only the lower parts of the wall. Again, it is relevant that the wall would be directly to the south of the patio thereby increasing its overshadowing effect.
10. Taking all the above effects into account I consider that the replacement building would unacceptably detract from the amenity of No 150 through overbearing impact and loss of sunlight. In so doing it would conflict with the objectives of saved local plan policies DE2 and DE9. I am aware that this is a balanced judgement, as is recognised in the case officer's report. As explained in my paragraph 8 above the issue is not whether the proposal would affect No 150 but whether the effect would cross the boundary into unacceptability. In this regard my assessment accords with the Council's corporate view. Despite my findings in relation to the first two issues I therefore find that the refusal of permission is justified.

Other Matters

11. No 150's occupants are also concerned about overlooking. The windows in the new building's rear elevation would have a clear view of the rear part of their garden but the overlooking of rear parts of gardens from the upper floors of neighbouring properties is not uncommon, and I do not think the arrangement would lead to an unacceptable loss of amenity. It would be possible to see No 150's open air swimming pool from an angled first floor kitchen at this side of the new building and the swimming pool could also be viewed by leaning over upper storey balconies. These effects are not sufficient to justify a refusal of permission but they marginally add to the overall unacceptability of the proposal.

George Arrowsmith

INSPECTOR