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# Appeal Decision

Site visit made on 12 June 2018

**by Richard Aston BSc (Hons) DipTP MRTPI**

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

**Decision date: 2<sup>nd</sup> July 2018.**

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**Appeal Ref: APP/J1535/W/17/3190473**

**Marydel, Copthall Green, Waltham Abbey EN9 3TB**

- 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 Schmidt against the decision of Epping Forest District Council.
  - The application Ref EPF/1782/17, dated 22 June 2017, was refused by notice dated 15 November 2017.
  - The development proposed is demolition of existing bungalow, construction of 3 bed detached house and 2 x 3 bed semi-detached houses.
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## Decision

1. The appeal is allowed and planning permission is granted for demolition of existing bungalow, construction of 3 bed detached house and 2 x 3 bed semi-detached houses at Marydel, Copthall Green, Waltham Abbey EN9 3TB in accordance with the terms of the application, Ref EPF/1782/17, dated 22 June 2017, subject to the conditions set out in the attached schedule.

## Application for costs

2. An application for costs was made by Mr Schmidt against Epping Forest District Council. This application is the subject of a separate Decision.

## Preliminary Matters

3. There is no dispute that the proposal lies within the Green Belt and would not be inappropriate development as defined in development plan policy and the National Planning Policy Framework ('the Framework'). On the evidence before me I have no reasons to disagree with that position.
4. The site lies within the Upshire Conservation Area ('UCA') and the Council's reason for refusal relates to a cramped form of development out of keeping with the character of the area but does not refer to this designation. There is a statutory duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. I have considered the appeal on this basis.
5. I have been referred to the emerging Epping Forest District Local Plan Submission Version 2017. Whilst this is the plan that the Council intend to submit for examination, its contents could be subject to change and it does not yet form part of the adopted development plan. In accordance with Paragraph 216 of the Framework I attach limited weight to it.

## **Main Issue**

6. Given the above, the main issue is the effect of the proposal on the Upshire Conservation Area.

## **Reasons**

7. The appeal site is part of a small linear settlement with commercial and residential ribbon development stretching along Crown Hill. The properties step down Crown Hill and are located opposite open fields and copses of woodland. There are a variety of irregular gaps and spaces in front of and between the properties that give views of sky and mature trees to the rear that positively contribute to the character and appearance of the area.
8. The UCA is extensive and covers a significant area of countryside, including other linear hamlets. I find that its significance appears to lie in its prevailing rural character and the buildings consisting of mainly traditional historic dwellings which, whilst not being individually distinct they combine to form a traditional aesthetic with a range of styles from different architectural periods, utilising traditional materials and fenestration.
9. The existing property is a single storey bungalow of little architectural or historic interest. Although the footprint and height of the existing single storey built form allows for a sense of spaciousness across the appeal site, I share the view of the Council's Conservation adviser that the current built form makes a negative contribution to this part of the UCA.
10. The proposal would not extend beyond the existing building line and gaps would be retained between the proposed dwellings and with the properties on either side, allowing views to the rear. The scale and height of the dwellings would be in keeping with adjoining properties and they would step down the hill reflecting the appearance of Wilmott Cottages and the wider streetscene.
11. Whilst there would be a partial loss of the space and perception of it, it would be replaced by buildings that in terms of size, siting, design and appearance would be entirely appropriate given the mixed vernacular in the area. They would not appear unacceptably cramped and I do not agree that a smaller garden size compared to some neighbouring properties would be so perceptible to the extent that indicates spatial or visual harm that should warrant the dismissal of the appeal on such grounds.
12. For these reasons, the proposal would both preserve and enhance the character and appearance of the UCA. It would accord with Policies DBE1 and DBE8 of the Epping Forest District Local Plan and Alterations. These policies, when taken as a whole require new buildings to respect their siting in terms of scale, proportions and height, are sympathetic in terms of external materials and provide amenity space which is of a size, shape and nature that enables reasonable use. In the context of the Framework, the development does not cause harm to the significance of a designated heritage asset and therefore accords with the heritage objectives of the Framework.

## **Other Matters**

13. In reaching this view I have had regard to the representations made by third parties in terms of flooding, highway safety, living conditions and domestic lighting. I acknowledge there is some local objection to the scheme but given

the conditions I have imposed the appeal proposal would not increase flooding or flood risk and would not cause harm to the safety of the local highway network or its users. I am also satisfied that on the evidence before me the proposal would not harm protected species or the living conditions of neighbouring occupiers. Furthermore, both the Council and statutory consultees to the application did not object on these grounds and I have no substantive evidence on which to reach a different view.

14. Whilst my attention has been drawn to development in the wider area that has been refused permission, I have not been provided with the full details and cannot therefore be certain they are directly comparable to the proposal before me. In any event each case must be determined on its own merits. Thus none of these other considerations, on their own or in combination, alter my view in relation to the main issue and do not warrant dismissal of the appeal on such grounds.

### **Conditions**

15. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. A condition is required to ensure compliance with the approved plans as this provides certainty. I have imposed a condition requiring details of the external materials to be agreed. This is in order to protect the character and appearance of the UCA.
16. Conditions are necessary for visibility splays, parking and turning areas to be provided, access arrangements and details and gates to be implemented and retained as such, in the interests of highway safety. The Council have requested a Flood Risk Assessment but the site does not appear to lie in a designated Flood Zone and I have not been provided with the justification for such a requirement and I have not therefore imposed it. Nonetheless, surface water is a concern so to prevent any increased risk I have imposed a condition requiring details of a sustainable surface water drainage system.
17. To ensure that risks from land contamination to future users of the land and buildings are minimised a condition relating to investigation, remediation, verification and monitoring and maintenance of any contamination is also necessary. Conditions requiring details of the soft and hard landscaping of the site including future management and maintenance and tree protection are necessary to protect and enhance the character and appearance of the area, mindful that the arboriculture submissions refer to an earlier scheme. I have combined the requirement for wheel washing and construction/demolition hours into a single construction method statement condition, in the interests of highway safety and the living conditions of neighbouring occupiers.
18. I do not share the officer's view that any future extensions to these dwellings would represent limited infilling and in my view, would fall to be considered as extensions. As permitted development rights are generous for such dwellings a condition removing Classes A, B and C of permitted development rights. Given the location of the appeal site in the Green Belt and in order to protect the character and appearance of the UCA and living conditions of neighbouring occupiers. I consider that in this particular case these are the exceptional circumstances required for such a restriction.

19. Conditions 3, 11, 12, 14 and 16 are conditions precedent and I am satisfied that they are fundamental to the development to ensure that it does not occur until such matters are resolved, in the interest of the effects on the character and appearance of the area, contamination, highway safety and the living conditions of neighbouring occupiers.

### **Conclusion**

20. For the reasons given above, subject to conditions the proposal would accord with the development plan, when read as whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan.
21. Having considered all other matters raised, I therefore conclude that the appeal should be allowed.

*Richard Aston*

INSPECTOR

## **SCHEDULE**

### **CONDITIONS**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 1864/02F, 1864/03 and 1864/01D.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the development the visibility splays, as shown on drawing no.1864/05 shall be fully implemented and retained clear to ground level in perpetuity.
- 5) Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a minimum width of 5 metres for at least the first 6 metres from the back edge of the carriageway and provided with an appropriate dropped kerb crossing of the verge.
- 6) Prior to the first occupation of the development the existing redundant vehicular access to the site shall be permanently closed off, incorporating the reinstatement of the highway verge and full height kerbing.
- 7) The dwellings hereby permitted shall not be occupied until the areas shown on approved plan 1864/02F for the parking and turning of vehicles have been provided, surfaced and marked out. Subsequently, the parking and turning areas shall not be used for any purpose other than the parking and turning of vehicles.
- 8) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 9) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 10) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The details shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependent upon the capacity of the receiving drainage, shall include calculations of any increased

storm run-off and the necessary on-site detention. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.
- 12) No development shall take place until details of the soft and hard landscaping of the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) All planting, seeding, turfing and other details comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14) No site clearance, preparatory work or development shall take place until a revised scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with Paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and

construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 15) If any retained tree is cut down, uprooted or destroyed or dies, or becomes severely damaged or diseased another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted, in accordance with condition 14, at such time as may be specified in writing by the local planning authority. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors and traffic management;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) wheel washing facilities;
  - v) measures to control the emission of dust and dirt during construction;
  - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - vii) delivery, demolition and construction working hours.
  - viii) The erection and maintenance of security fencing/hoardings.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development under Schedule 2, Part 1, Classes A, B or C shall take place on the dwellinghouses other than those expressly authorised by this permission.