
Appeal Decision

Site visit made on 22 March 2016

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 09 May 2016

Appeal Ref: APP/J1535/W/15/3139227
26 Meadow Way, Chigwell, Essex IG7 6LR

- 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 Peter Argyrou against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/1279/15, dated 19 May 2015, was refused by notice dated 26 August 2015.
 - The development proposed is a two storey new build house.
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Decision

1. The appeal is allowed and planning permission is granted for a two-storey new build house at 26 Meadow Way, Chigwell, Essex IG7 6LR in accordance with the terms of application ref: PL/EPF/1279/15, dated 19 May 2015 and subject to the conditions set out in the attached schedule to this decision letter.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring residents with particular regard to outlook, noise and disturbance.

Reasons

Character and appearance

3. The surrounding area is one of large detached dwellings, positioned on generous plots within a well-landscaped streetscene, establishing an open and verdant character. The appeal site consists of an area of grass land situated within a gated cul-de-sac accessed from Meadow Lane which serves three detached dwellings. The appeal site is situated towards the front of the cul-de-sac between 22 and 28 Meadow Way (Nos 22 and 28), in front of 24 Meadow Way (No 24) but behind a sizeable front boundary gate and wall. It is adjacent to, but not within, the Chigwell Village Conservation Area (CA), albeit the south western boundary wall of the site does form the boundary of the CA.
 4. The proposed dwelling would be of a traditional design which would be in keeping with the prevailing character of the nearby dwellings and the surrounding area. In terms of its elevations, the dwelling would have a dual
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- aspect design which would address the main Meadow Way frontage to the south east, as well as the private road of the cul-de-sac to the north east.
5. When viewed from Meadow Way the scheme would appear somewhat smaller in scale than its neighbouring properties. However, while there are larger properties in the immediate locality, a number have been extended over time and were originally smaller dwellings and the proposed dwelling's appearance would reflect its surrounding context well and would not be inappropriate or out of keeping. The position of the proposed dwelling and its set back from the main building line between Nos 22 and 28 would not have a significantly adverse effect on the streetscene.
 6. The dwelling would be partially concealed behind the substantial front boundary wall of the cul-de-sac and also behind the mature trees to the front on Meadow Way. Furthermore, given the separation distances to neighbouring properties, the dwelling would complement the character and appearance of the area by providing a more defined frontage to Meadow Way than is currently provided by No 24 which is set back considerably further.
 7. Whilst I accept that the scheme would introduce further built form to the area, the design and scale of the proposed dwelling would not reduce the spacious character and the generous plot sizes to the surrounding properties would be maintained. The proposed private garden space comfortably exceeds the relevant requirements. Furthermore, the proposed dwelling would sit comfortably on, and be in proportion to, its slightly smaller plot and would not represent cramped development.
 8. Whilst the proposed dwelling would result in the loss of a grassed area within the gated cul-de-sac, it would provide a new dwelling in an established residential area. The scheme would be proportionate in size and scale to its plot and although it would be smaller than its neighbouring properties, its traditional design would be in keeping with its surroundings. As a result, its position and appearance would not have an adverse effect on the area. Consequently, in my assessment, the proposed development would not cause any significant harm to the character and appearance of the surrounding area.
 9. Accordingly, I conclude that the appeal scheme would comply with Policies CP2(iv), CP7 and DBE3 of the adopted Epping Forest Local Plan and Alterations (the Local Plan). These policies, amongst other matters, seek to ensure that development safeguards and enhances the character and townscape of the area, makes full use of existing urban areas where it would not result in over-development, unsympathetic change or loss of amenity and provides defined spaces which are functional, attractive and safe.

Living conditions: neighbouring residents

10. The proposed dwelling would be positioned approximately 32 metres in front of No 24 to the north and be separated by approximately 11 metres from No 28 to the east. The effect on the outlook of neighbouring occupiers would therefore be limited. Whilst the view from No 24 would clearly be altered, the separation would be sufficient such that there would be no undue loss of outlook. Furthermore, from No 28, while the new dwelling would be visible, it would be set behind the principal windows and at sufficient distance and angle such that it would not have an adverse effect on outlook, particularly given the residential nature of the area.

11. The scheme would result in some additional traffic passing along the private lane to the courtyard and garage area. There would be additional manoeuvring within the courtyard and the possibility of cars meeting along the access lane. However, such movements already exist and the small increase represented by this additional dwelling would be insufficient to lead to material harm to the living conditions of neighbouring occupiers as regards noise and disturbance associated with this.
12. Consequently, I conclude that the proposed development would not cause any significant harm to the living conditions of neighbouring occupiers. It would therefore conform with Policies CP7 and DBE9 of the adopted Local Plan which, in part, seek to ensure that development does not result in any loss of amenity for neighbouring occupiers.

Other matters

13. I note local residents' concerns regarding the loss of views, sunlight and privacy. The right to a view is not a material planning consideration and therefore I do not give this any significant weight in my decision. With regard to potential loss of sunlight, there would be sufficient separation between the proposed dwelling and nearby properties so as not to cause any substantial overshadowing of other nearby gardens or dwellings. Any loss of sunlight experienced by the occupiers of 28 and 30 Meadow Way would be during late afternoon or evening and the effect of such loss would be limited due to the screening effect of the existing dense tree cover along the public footpath. Accordingly, I find that any such loss of sunlight would not have a material effect on the levels currently enjoyed by neighbouring occupiers.
14. With regard to privacy, the separation distance to No 24 would be sufficient to protect privacy. Other neighbouring occupiers have raised concerns about overlooking from the proposed windows positioned on the north eastern elevation of the proposed scheme. However, the windows to the proposed stairwell and the first floor en-suite bathroom, which would face the private road and the rear gardens of Nos 28 and 30 beyond, would be obscure glazed. Indeed, such a measure could be secured by condition. The ground floor windows facing north east would not have any substantial adverse effect on privacy due to their height, their distance from, and the screening effect of the boundary fencing of No 28. Furthermore, in my assessment, any variance in ground level as a result of the scheme would be unlikely to have any substantive adverse effect on the privacy issues raised. However, a levels condition could be imposed to ensure that levels do not alter significantly as a result of the proposed development.
15. Concerns regarding highway safety and parking, access for emergency service vehicles, the potential impact on bats and on trees and ecology have also been raised. The proposed dwelling would create a requirement for two additional parking spaces. Planning permission for, and the construction of, the garaging associated with the proposed development has already occurred. Thus, the provision of two additional parking spaces, which can be secured by condition, would be sufficient. I note also that the highway authority has raised no objection to the scheme in this regard. From what I have seen before me and on my site visit, I have no reason to differ from that view.
16. The proposed dwelling would not alter the existing arrangements for access by emergency service vehicles and I, therefore, have no substantive concerns

regarding this matter. In relation to the potential impact on bats, trees and ecology, any effects would be limited, and tree protection can be secured by condition.

17. The Council raise the issue of the potential lack of natural daylight and sunlight available to the future occupiers as a result of the relationship with the boundary wall. In light of the design and orientation of the property, with its dual aspect configuration, I am satisfied that any effect arising from the close proximity of the wall would be insufficient to warrant dismissal of the appeal.

Conditions

18. I have had regard to the planning conditions that have been suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect the relevant parts of the Planning Practice Guidance (PPG). I have not imposed some suggested conditions for the reasons set out below.
19. In addition to the standard implementation condition (1), I have imposed a condition specifying the relevant plans as this provides certainty (2). Conditions relating to materials (3), landscaping (4, 5) and tree protection (6) are appropriate in the interests of character and appearance. A condition relating to the protection and retention of the south western boundary wall (7) is appropriate and necessary for similar reasons. Further conditions relating to site levels (8), land contamination (9), a construction method statement (10), windows (11) and foul and surface water drainage (12) are necessary to ensure that living conditions are satisfactory for future and neighbouring occupiers. I have imposed a condition to require that the approved garaging is retained solely for the parking of cars in the interests of highway safety (13). Given the residential character of the area, it is appropriate that controls are placed upon the hours of construction work and I impose a condition accordingly (14).
20. I have not imposed a condition relating to the Public Right of Way as I do not consider this to be necessary or relevant to the approved development. I am also not persuaded that it is necessary to remove permitted development rights, as the Council suggests. The PPG indicates that such restrictions should be exceptional and I do not consider the circumstances in this case to be so. It is essential that the requirements of conditions 3, 4, 6, 7, 8, 9 and 10 are agreed prior to development commencing to ensure an acceptable form of development in respect of the design, landscaping, tree protection, contamination and preservation of the character of the CA.

Conclusion

21. For the above reasons, having regard to all matters raised and subject to the conditions set out in the attached schedule, I conclude that the appeal should be allowed.

Andrew McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing nos. 2015.105.PA-01; 2015.105.PA-02 rev A; 2015.105.PA-03; 2015.105.PA-04; 2015.105.PA-05; 2015.105.PA-06; 2015.105.PA-07; 2015.105.PA-08 rev A; 2015.105.PA-09 rev A; 2015.105.PA-10 rev A; 2015.105.PA-11 rev A; 2015.105.PA-12 rev A; 2015.105.PA-13 rev A; 2015.105.PA-14 rev A; 2015.105.PA-15 rev A and 2015.105.PA-16 rev A.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development 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) No development shall commence, including site clearance or other preparatory work, until details of both hard and soft landscape works (including tree planting and an implementation programme) have been submitted to, and approved in writing by, the local planning authority. The hard landscaping details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) means of enclosure and retaining structures;
 - iii) car parking layouts; and
 - iv) minor artefacts and structures, including signs and lighting and functional services above and below ground.The details of soft landscape works shall include:
 - v) planting plans;
 - vi) written specifications (including cultivation and other operations associated with plant and grass establishment); and
 - vii) schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development hereby permitted; and any trees of plants which within a period of five 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.
- 6) No site clearance, preparatory work or development shall take place until a 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 BS5837: 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.
- 7) No development shall commence until details of how the existing wall along the south western boundary that forms part of the Chigwell Village

Conservation Area shall be retained and protected during construction is submitted to, and approved in writing by, the local planning authority. The development shall then be carried out and maintained thereafter in accordance with the approved details.

- 8) No development shall take place until full details of all finished floor levels, above ordnance datum, in relation to existing and proposed site levels for the building and external space and to the adjacent buildings have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved levels.
- 9) 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 30 days of the report being completed and approved in writing by the local planning authority.

- 10) 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;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - viii) the approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 11) The building hereby permitted shall not be occupied until the proposed window openings at the first floor level of the north eastern flank elevations have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to, and approved in writing by, the local planning

authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

- 12) The building hereby permitted shall not be occupied until the foul and surface water disposal works shall have been completed in accordance with details that have first been submitted to, and approved in writing by, the local planning authority.
- 13) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or of any equivalent provision in any Statutory Instrument revoking or re-enacting that Order), the garage indicated on drawing 2015.105. PA-08 rev A for use for number 26a, shall be permanently retained for use for number 26a so that it is capable of allowing the parking of cars together with any ancillary storage in connection with the residential use of the site, and shall at no time be converted into a room or used for any other purpose.
- 14) Construction works shall take place only between 0800-1800 Monday to Friday and 0800-1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF SCHEDULE