



Appeal Decision

Site visit made on 12 February 2019

by **Helen B Hockenhull BA (Hons) B.PI MRTPI**

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

Decision date: 04 March 2019

Appeal Ref: APP/J1535/W/18/3204578
105 Manor Road, Chigwell, IG7 5PN

- 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 Chigwell Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/3177/17, dated 18 November 2017, was refused by notice dated 25 April 2018.
 - The development proposed is the demolition of existing property and erection of a development of 3 no. 2 bed flats and 1 no. 1 bed flat including car parking.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council submitted the Submission Version of the Epping Forest District Local Plan for Examination in September 2018. The Council have advised that there are unresolved objections to certain policies of the Plan. Whilst it forms a material consideration, I accord it limited weight in this appeal.
3. The appellant has provided a signed and dated Unilateral Undertaking pursuant to section 106 of the Town and Country Planning Act 1990. This makes provision for a financial contribution towards the mitigation of effects on the Epping Forest Special Area of Conservation (SAC).

Main Issues

4. The main issues in this case are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of future occupants with particular regard to external amenity space;
 - the effects of the development on highway safety and the adequacy of on-site car parking provision.

Reasons

Character and appearance

5. The appeal site is occupied by a two-storey detached house located

on the corner of Manor Road and Fencepiece Road, Chigwell. The area has a mixed character. North of the site is a petrol filling station and to the east is Sherrell House, a 3-storey building used for sheltered accommodation for the elderly. Looking south are two storey residential properties on Fencepiece Road. To the west lies Manor Court, a large 4 storey apartment building. There are also a number of other flat developments in the wider area. These provide a range of architectural styles including both traditional and modern designs and use a variety of materials.

6. The appeal scheme replaces the existing 2 storey dwelling with a 2 storey building providing 4 apartments. It is proposed to be constructed in brick with render and a pitched tiled roof. The building would have a height to the ridge of approximately 9.2 metres. The adjoining residential property at No. 281 Fencepiece Road is set slightly lower to the appeal site and has a ridge height of around 9 metres. Seen in the context of the 4 storey Manor Court to the rear of the appeal site, I am satisfied that the proposed building would be of an appropriate height and scale resulting in no adverse impact on the character and appearance of the area.
7. In terms of design, the hipped nature of the roof fronting Fencepiece Road reflects the design of the neighbouring residential properties. I acknowledge that the site forms a corner location and is therefore prominent in the street scene. Having regard to the mixed nature of the surrounding area, with both traditional and modern development, I am satisfied that the proposal would not cause harm to the character or appearance of the locality. The proposed materials would also be appropriate complementing other built development in the area.
8. In support of the proposal my attention has been brought to a previous appeal on the site, which also included the adjoining property at No. 281 Fencepiece Road. This scheme was for 11 apartments in a part 3-part 4 storey building. The Inspector found this proposal to be acceptable in terms of the character and appearance of the area. Clearly this was for a much larger building on a bigger plot and therefore would not be completely comparable to the scheme before me. In any event I must determine this appeal on its individual merits.
9. In conclusion I consider that the proposal would not cause harm to the character and appearance of the area. It would therefore accord with Saved Policies CP2 and DBE1 of the Epping Forest District Local Plan and Alterations 2006 (the Local Plan) and draft Policy DM9 of the Submission Version Local Plan. These policies seek to ensure that new development respects its setting in terms of scale, proportion massing and height and safeguards and enhance the townscape of the urban environment.

Living conditions

10. The appeal scheme provides a shared external amenity space of just under 40 square metres. This adjoins the patio area to Flat A. Flat B would have access to 2 separate patio areas and Flats C and D on the first floor would have balcony areas. The smallest balcony, around 4.8 square metres in area, would serve Flat D, the one bedroom flat.
11. The shared outdoor amenity space whilst it would be accessible to all future occupants, would be sited next to habitable room windows in Flat A.

Occupants of this flat would suffer a loss of privacy when other residents make use of the area. This would adversely affect their living conditions.

12. However, each flat would have a private amenity area, either a patio or a balcony. Saved Policy DBE8 of the Local Plan requires new residential development to provide private amenity space and sets out several criteria which should usually be met. Whilst the Council has raised concern about the shared amenity space, no evidence has been provided to demonstrate that the private amenity space, the proposed balconies and patios, would be inadequate for future occupants.
13. Applying the criteria of Policy DBE8, the balconies would be accessible, be of a usable size and receive reasonable direct sunlight. They would not have an excessive slope in finished form and would be private on a continuing basis. Whilst I accept that they would not be located to the rear of the building, this is not unusual in a flat development.
14. The appellant has referred me to two other approved flat developments on Manor Road which do not have private outdoor amenity space. Whilst this may be the case, I have considered the appeal scheme on its individual merits.
15. In summary, on the basis of the evidence before me, I am satisfied that, notwithstanding my concerns with regard to the shared amenity space, the appeal scheme provides adequate private amenity space. The proposal would therefore provide acceptable living conditions for future occupants in compliance with Saved Policy DBE8 of the Local Plan.

Highway safety

16. The reason for refusal refers to two issues. Firstly, the manoeuvring of vehicles into and out of the site onto Manor Road and secondly the number and size of the car parking spaces.
17. The appeal scheme provides 4 on site car parking spaces, one for each flat. The Council has stated that in line with the Essex County Council Parking Standards 2009, the proposal should provide 7 spaces.
18. The access to the development would be in the same position as the access to the existing garage on the site but would be widened to 5 metres. It would therefore be no closer to the traffic light junction of Manor Road/ Fencepiece Road. Whilst there may be an increase in vehicles using the access, this would be minimal, and I have no evidence to suggest that highway safety would be compromised. The appellant has made me aware that the appeal site along with the neighbouring site is proposed to be allocated in the Submission Version Local Plan for residential use (Site CHIG.R3 and CHIG.R11). This allocation also assumes the use of this existing access.
19. Turning to the matter of on-site car parking, the four spaces to be provided would measure approximately 4.9 metres by 2.5 metres. This is marginally below the required minimum standard of 5 metres by 2.5 metres stated in the Essex County Council Parking Standards. The appellant has argued that the size of the proposed car parking spaces is nevertheless typical of car parking spaces in the UK. Whilst accepting the car parking spaces would be of a minimum size, I consider that they would be adequate.

20. The above Parking Standards allow for a reduction in on site car parking in areas of good access to public transport. The appeal site is located close to a number of bus routes and is within walking distance of an underground station. The site is therefore very accessible by means other than the car. A reduction in on site car parking spaces is therefore justified.
21. Furthermore, I note that the Essex County Council Highway Authority have raised no objection to the scheme. This is based on the Highway Authority's Development Management Policies adopted as Supplementary Guidance in February 2011. This post-dates the Parking Standards referred to by the Council.
22. Taking the above factors into account, I am satisfied that the appeal proposal would have an acceptable access and adequate car parking, causing no harm to highway safety. The proposal would therefore comply with Saved Policies ST4 and ST6 of the Local Plan and draft Policy T1 of the Submission Version Local Plan. These policies aim to ensure that new development does not have an adverse impact in terms of road safety and provides adequate car parking.

Other Matters

23. The appeal site lies approximately 2.8 km away from the Epping Forest Special Area of Conservation (SAC). The requirements of The Conservation of Habitats and Species Regulations 2017 (the Regulations) therefore apply to this appeal. These require that I, as the competent authority, ensure that there are no significant effects from development both individually and cumulatively, which would adversely affect the integrity of the SAC.
24. Two issues have been identified which could lead to adverse effects. Firstly, recreational pressure and secondly air pollution from vehicles. The appellant has made me aware of a report to the Council's Cabinet in October 2018 which addressed the approach to managing recreational pressure. The report recommended that development contribute £352 per dwelling. As the appeal scheme results in a net increase of 3 dwellings on the site, the appellant has provided a signed and dated Unilateral Undertaking making provision for the required contribution of £1056.
25. The Council have brought my attention to interim advice from Natural England, issued 20 September 2018. This advises that all new development in the district has the potential to increase air pollution unless appropriate mitigation is provided. The Council is working with Natural England and other neighbouring authorities towards establishing a mechanism for collecting contributions that would be used to offset any potential impact because of air pollution on the SAC and a Mitigation Strategy which would identify specific measures or projects.
26. I note that the Council has resolved to grant planning permission for a similar scheme for 4 flats on the site subject to a section 106 agreement to provide the necessary financial contributions to fund appropriate mitigation measures¹. The agreement has not been finalised and the planning permission has not been issued in line with the Council's Interim Advice² on this matter.

¹ Planning application ref EPF/1798/18

² Planning Applications affected by Epping Forest Special Area of Conservation (SAC) – Interim Position 30 July 2018.

27. Planning permission can only be granted where it has been demonstrated that the development will not adversely affect the integrity of the SAC. In the absence of mitigation to overcome the in-combination effects that have been identified due to air pollution, I am unable to allow this appeal.

Conclusion

28. I have found that the appeal scheme would cause no harm to the character and appearance of the area, to the living conditions of future occupants or to highway safety. However, as there is no agreed mitigation in place at the current time to address the effect of air pollution, I cannot be satisfied that the appeal proposal, in combination with other development, would not have an adverse impact on the SAC.

29. For the reasons given above and having had regard to all other matters raised, I dismiss this appeal.

Helen Hockenhull

Inspector