



Appeal Decision

Site visit made on 19 February 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2019

Appeal Ref: APP/J1535/W/18/3215517

4 Kendal Avenue, Epping CM16 4PN

- 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 & Mrs Virk against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/1348/18, dated 8 May 2018, was refused by notice dated 8 August 2018.
 - The development proposed is 'demolition of existing 4 bed house. Construction of 3 storey block of flats consisting of 5, 2 bedroom flats, with allocated parking, cycle store and bin store. Resubmission of refused application: EPF/2335/17'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area; and on highway safety.

Reasons

Character and appearance

3. The appeal site comprises a detached two storey dwelling of traditional design and appearance located on a corner plot next to the junction of Kendal Avenue with Hartland Road. The surrounding area includes similar types of property of varied designs and ages.
4. Policies DBE1 and CP2(iv) of the Local Plan¹ require development to respect and safeguard their setting and local character. Policy CP7 of the same plan concerns urban form and quality and encourages the effective reuse of land in urban areas while requiring high quality design and respect for local character.
5. Despite the age of the Local Plan, these policies are consistent with section 12 of the National Planning Policy Framework (the Framework) concerning good design. In particular, paragraph 127 requires that policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and landscaping, and are sympathetic to local character;

¹ Epping Forest District Local Plan 1998, Alterations 2006

and that policies and decisions should not prevent appropriate change, such as increased densities. Therefore, I give these local policies considerable weight for the purposes of determining this appeal.

6. The proposal involves demolition of the existing building and its replacement with a new apartment building to accommodate five flats with parking to the Kendal Avenue frontage. Kendal Avenue slopes downhill to the south east away from the appeal site and, together with the open aspect next to the road junction, results in the appeal site being visually prominent in the street scene.
7. The layout and orientation of the appeal property reflects the position of other properties on Kendal Avenue, with its front elevation facing the road. The open aspect to the rear, with views across the road junction and garden provides some visual relief from the surrounding development and so makes a positive contribution to the character and appearance of the area.
8. I accept that the design of the proposed building is intended to respect the surrounding built form, where the majority of properties are large detached dwellings. It would include a number of elements that are characteristic of properties in the surrounding area, including gables, dormer windows and a similar roof form.
9. Despite the similar design features, the proposal would result in a substantively larger replacement building. This would be particularly apparent due to its layout, with its frontage and building entrance facing Hartland Road. The combined increase in height with the extensive length of the frontage would contrast unfavourably with the site's current appearance as it would utilise a large part of the rear garden and so reduce the existing open aspect. Moreover, it would be of a scale that would appear significantly larger than the properties facing it on Hartland Road.
10. The building's orientation with the side elevation facing Kendal Avenue and its frontage on Hartland Road would be uncharacteristic and would draw attention to the building's layout and overall scale, which due to the increased bulk and mass would appear incongruous in its wider setting. Overall, therefore, the extent of the building on this highly visible site would give the appearance of overdevelopment, with a building that would dominate rather than just be prominent in the street scene.
11. I acknowledge that No 3 on the opposite side of Kendal Avenue is a similar form of recently-approved development, with apartments incorporated in a large detached building. However, this stands on lower ground than the appeal property and so is less prominent in the street scene. Moreover, its orientation respects the neighbouring dwellings and, therefore, its effects are not directly comparable to those of the appeal proposal, as found above.
12. While the proposal would reuse urban land and increase the density of development on the site, this would not be sufficient to outweigh the above findings with regard to the effects of the particular form and layout of building proposed. Therefore, for the above reasons, I conclude that the proposal would have an unacceptably harmful effect on the character and appearance of the area. Consequently, it would be contrary to Policies DBE1, CP2 (iv) and CP7 of the Local Plan and section 12 of the Framework, as described.

Highway safety

13. Six parking spaces would be located next to Kendal Avenue. I accept the appellants' contention that with all the spaces occupied, vehicles exiting from spaces one, two and three could reverse back towards spaces five and six, and so leave the site in forward gear. Spaces four, five and six would be more tightly constrained if the other spaces were occupied. However, it would be possible for vehicles in these spaces to reverse to a position close to the entrance in front of space one and manoeuvre into a forward position before leaving the site.
14. With this in mind, it seems to me that parked vehicles would not necessarily be forced to reverse into the highway. Consequently, I do not find that the appeal scheme would compromise the safe use of the highway. There would therefore be no conflict with Policy ST4 of the Local Plan which seeks, amongst other things, to ensure that new development would not be detrimental to highway safety.

Other Matters

15. The appellants raise concerns about the Council's approach to its decision. However, Council members are not bound to accept officers' advice and in this case clear reasons for refusal of the application were given.
16. I have had regard to matters raised by interested parties. During the site inspection I was able to use the existing vehicular access onto Hartland Road which would also serve the proposed building. There is sufficient visibility from the access such that any increase in use associated with the proposal would not result in harm to highway safety. The proposal would comply with parking standards in this location and this, combined with on-street restrictions near the site, means that no material harm is likely to arise from additional off-site parking related to the proposed use.
17. Most trees on the site would be retained and any losses could be compensated for through additional planting to retain its current character. The proposed building would retain sufficient separation from neighbouring properties such that there would be no adverse effects arising out of overlooking, overshadowing or noise. I have no substantive evidence before me to suggest that this is a suitable site to provide affordable housing, as required by development plan policies and I note that this matter is not raised by the Council. Similarly, there is no evidence to support the contention that the development will result in flooding of neighbouring properties. Shared amenity space is provided to the rear and there is no evidence to suggest that this would not be of an appropriate extent or quality.
18. While the proposal would result in the loss of a family-sized dwelling, I have no evidence to suggest with regard to the appeal proposal that this would in itself be harmful. With regard to concerns about precedent, any similar development proposals that might come forward would need to be considered on their individual merits. It is not clear that emergency vehicles would need to enter the site given its proximity to the road. Concerns about the effect of restrictive covenants do not have a direct bearing as this is not a planning matter. Therefore, while I have had regard to all these other matters, for the above reasons I give them limited weight with regard to this appeal.

19. The Council refers to advice from Natural England (NE) about the effects of development in relation to the Epping Forest Special Area of Conservation (SAC); and that two policies from its Submission Version Local Plan are material. Policy DM22 is intended to apply a district-wide approach to the potential impact of development on air quality, although as yet there is no agreed mechanism to ensure that air pollution mitigation is secured. Policy DM2 requires that proposals for new homes in specified settlements, including Epping, will make a financial contribution to access management and monitoring of visitors to the SAC. The Council has agreed with NE that the contribution required is £325 per new dwelling and contends that this matter remains outstanding with regard to the appeal proposal.
20. I acknowledge the importance of NE's advice and the objective of mitigating any potential effects of development on the SAC, as reflected in Policy DM2. However, the Local Plan is currently at examination stage. While the plan is at a relatively advanced stage in its preparation, it is unclear whether there are unresolved objections to Policy DM2 and, if so, how significant these are. For this reason, I find that only limited weight can be given to Policy DM2 for the purposes of this appeal and, consequently, the lack of a financial contribution should not count against the proposal. In any case, I have found that it would cause harm in other areas that would result in conflict with the development plan.
21. The officer's report, which has been provided to me, indicates that the Council cannot identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework (paragraph 73). The Council indicates that it has 1.58 years' worth of housing; the same figure is referred to by the appellants.
22. In its appeal statement, the Council states that, taking account of sites which already have planning permission and allocations included in the Submission Version Local Plan, it can demonstrate five years' worth of housing. However, and reiterating an earlier point, it is unclear whether there are unresolved objections with regard to housing matters and what the outcome of the plan examination will be in this regard. Given this uncertainty, I find that only limited weight can be given to the emerging draft plan with regard to this matter.
23. As such, for the purposes of this appeal, I have taken the Council's current housing supply position to be 1.58 years as initially indicated. Consequently, footnote 7 to paragraph 11d) requires that permission should be granted, subject to two exceptions. In the particular circumstances of this case, 11d) ii. is relevant. This requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Planning Balance

24. I have found that the proposal would result in unacceptable harm to the character and appearance of the area. As such, the proposal is contrary to a number of criteria in paragraph 127 of the Framework concerning good design. I give significant weight to the conflict with the Framework's objectives and requirements in this regard. Similarly, I give the same weight to the conflict

with development plan policies to promote good design that have been found to be consistent with the Framework and which are not out-of-date.

25. Conversely, the proposal would have a number of benefits in accordance with the Framework. It would provide five additional units, thereby boosting the supply of homes where current housing supply significantly falls short of the required level. Moreover, it would contribute to the housing mix in this area by providing flats and make use of previously developed land. It would also provide some short-term economic benefits in terms of construction.
26. I give considerable weight to these benefits, particularly the importance of boosting housing supply given the acknowledged shortfall in provision. However, in the particular circumstances of this case, I consider that the extent of conflict with the Framework's objectives and policies to promote good design outweighs the benefits, important as these are. Therefore, I conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, and so the presumption in favour of sustainable development does not apply.

Conclusion

27. The proposal is contrary to development plan policies and to the Framework as it would cause unacceptable harm with regard to the effect on character and appearance. Despite the shortfall in housing provision, the presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. While I have found in the appellants' favour with regard to the second main issue, concerning highway safety, this is not sufficient to outweigh the harm that has been found. Accordingly, for these reasons, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR