

Appeal Decision

Site visit made on 16 September 2014

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 25 September 2014

Appeal Ref: APP/J1535/D/14/2223381

11 Tower Road, Epping, Essex CM16 5EL

- 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 R Jones against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0879/14, dated 16 April 2014, was refused by notice dated 23 July 2014.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension at 11 Tower Road, Epping, Essex CM16 5EL in accordance with the terms of the application, Ref PL/EPF/0879/14, dated 16 April 2014, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
 - 3) The proposed window openings in the northern and western elevations at first floor level shall be fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
 - 4) No further window openings shall be installed in the northern (rear) elevation of the house without the prior written approval of the Local Planning Authority.

Main Issue

2. The main issue in this case is the effect of the proposed extension on the living conditions of the occupiers of Nos 9 and 13 Tower Road, with particular reference to outlook.

Reasons

3. Tower Road consists mainly of detached residential properties. No 11 Tower Road is set on a corner of the street where it bends to the north and is consequently flanked by two properties, No 13 to the north and no 9 to the west. The proposal seeks to construct a two storey extension to the rear of the

property to provide a new kitchen at ground floor level and a further bedroom and en-suite bathroom upstairs.

4. At present the rear of No 11 is made up of a patio, garden and parking area. The proposed extension would be around 4m wide according to the Council's figures and would thus bring the rear gable of the appeal property 4 metres closer to No 13 than it currently is. The new gable wall would contain three windows; two at ground floor level to serve the kitchen and one at first floor level to serve as a secondary window to the new bedroom upstairs.
5. No 13 is set slightly lower than No 11 and has a kitchen window and side door at ground floor level on its southern side elevation, with a landing window at first floor level. Although the proposal would reduce the distance between the two properties I do not consider that the bulk and mass of the proposal would be particularly overbearing, as there would still be around 4m between the walls of the properties according to the submitted plans, a distance not uncommon in a residential environment involving side elevations. Nor would there be a significant detrimental effect on the rear garden of No 13.
6. The proposal would clearly be visible from the rear of No 9. However, there is a significant distance between the two properties. The proposed extension would run along the eastern boundary of No 9 but would be set in around a metre from this boundary according to the Council's figures. The rear garden of No 9 is quite wide and the proposal would not extend the full width of the boundary between the properties. Given this, and the distance between the side elevations of the two dwellings, I do not consider that it would be particularly overbearing to the garden of No 9.
7. I therefore conclude that the proposed extension would not have an adverse effect on the living conditions of the occupiers of Nos 9 and 13 Tower Road, with particular reference to outlook. The proposal would comply with Policy DBE9 Epping Forest District Local Plan (January 1998) which states that the Council will require that an extension does not result in an excessive loss of amenity for neighbouring properties, including visual impact.

Other Matters

8. The occupiers of both No 13 and No 9 raise concerns about overlooking from the proposal. Between No 11 and No 13 there is a hedge and close boarded fence which will largely screen any direct overlooking between the existing ground floor windows of No 13 and the proposed kitchen windows. However, at first floor level the proposal has a bedroom window which would look virtually directly into a landing window on the side of No 13. The plans note that this bedroom window could be obscure glazed if required. I consider that this would be necessary to avoid direct overlooking. The residents of No 13 also have concerns over a bathroom window on their rear elevation and possible overlooking between this window and the proposed bedroom window. However, the angle between these windows is quite tight and the proposed obscured glass for the bedroom window would also help avoid overlooking in this regard.
9. With regards to No 9, at first floor level on the western elevation of the proposal there are two windows; one in the extension and a new one proposed in the fabric of the existing building. However, both of these windows are indicated as high level windows and would serve a bathroom and en-suite

respectively and so would also be obscured glazed. Whilst there is a new side door proposed, this would be at ground floor level. I do not consider therefore that the proposal would have a significant overlooking effect on No 9.

10. The occupants of No 13 and No 9 also raise concerns over the effect of the proposal on the light to their properties. Whilst light would be affected to a certain degree, I do not consider that this would be significant to either of the properties due to the distance maintained between the proposal and the neighbouring properties. Concern is also raised over the possible effect on a holly tree located in the north east corner of No 9's garden. However, there is no evidence that this would be the case and the tree is not protected.
11. The occupiers of No 15 Tower Road also have concerns over the effect of the proposal on their living conditions with regard to light and overlooking. However, I consider that the proposed extension would be largely screened from this property by the existing house of No 13 located between No 15 and the proposal.

Conditions and conclusion

12. I have imposed conditions relating to implementation within three years and compliance with plans. These are necessary for the proper planning of the area and for the avoidance of doubt. I have also imposed a condition to ensure that the materials of the proposed extension match the existing property, in the interests of the character and appearance of the area.
13. The Council suggest a condition to ensure that the proposed windows at first floor height are fitted with obscured glass and have fixed frames. I agree with this condition to avoid overlooking of the adjacent properties, although I have altered the stated orientation of the elevations of the proposal to the correct ones facing Nos 9 and 13 Tower Road.
14. The Council also suggest a condition restricting any new windows in the southern elevation of the proposal without the consent of the Council, to avoid future overlooking issues. I agree with the premise of this condition to safeguard the amenities of neighbouring occupiers, but have altered the condition to state the northern elevation as this is the rear elevation.
15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jon Hockley

INSPECTOR

Appeal Decision

Accompanied site visit made on 6 May 2014

by Felix Bourne BA(Hons) LARTPI Solicitor

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

Decision date: 22 May 2014

Appeal Ref: APP/J1535/A/13/2206030
Great Notts, Moreton Road, Ongar, CM5 0LU

- 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 Mrs Shirley Bates against the decision of Epping Forest District Council.
 - The application Ref EPF/1043/13, dated 23 May 2013, was refused by notice dated 17 July 2013.
 - The development proposed is described in the application as “revised application for engineering operations comprising formation of roadway and installation of cesspool”.
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Main Issue

1. The appeal site is located in the Green Belt and therefore the main issue is whether the proposed development would represent inappropriate development in the Green Belt. If so, I shall consider whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances that would justify the development. If not, I shall consider whether there are any other planning objections which render the development unacceptable.

Inspector’s Reasoning

2. Paragraph 79 of the National Planning Policy Framework (NPPF) makes it clear that the Government attaches great importance to Green Belts. It goes on to say that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
3. Paragraph 87 of the NPPF confirms that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework’s following paragraph indicates that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm in the Green Belt and that ‘very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
4. Paragraph 89 of the NPPF states that local planning authorities should regard the construction of new buildings in Green Belt as inappropriate. Whilst the development subject of appeal does not include the construction of a new building, it is relevant to note that paragraph 89 then lists exceptions to that general rule, these including provision of appropriate facilities for outdoor sport

and outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

5. The original application for the development had indicated that the works were required to serve a camping/caravanning area to be used under the 28 day rule permitted by the GPDO, but included no further details. However, the Council's Report to Committee on the appeal proposal sets out additional information submitted with this revised application, with regard to the need for the roadway and cesspool. It explains that the works have been confirmed as necessary in order to obtain an exemption certificate from the Caravan and Camping Club.
6. The Report to Committee recommended that planning permission be granted. However, in their Statement of Case seeking to defend the refusal that in fact occurred, the Council argue that the engineering operations subject to this application are 'purely hypothetical', pointing out that no exemption certificate has been issued for camping and caravanning on this site, and that there is no guarantee that such an intended use will ever take place. However, the information provided in the Camping and Caravanning Club booklet, 'Your Certified Site – All You Need to Know', suggests that these basic requirements need to be met before such a Certificate can be forthcoming.
7. However, even if this were not the case, paragraph 90 of the NPPF makes it clear that some forms of development, including engineering operations, are also not inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.
8. Planning permission has already been granted for the new field access and it is therefore the very long, three metre wide, section of roadway, and the cesspool, which need to be considered. As to the former, the proposed surface would be grass-seeded over the sub-base, ensuring that it would appear relatively inconspicuous within the landscape. Were it indeed to be used to gain access to a camping/caravanning area, that area would itself be less conspicuous than if it had been located closer to the road frontage. The cesspool would be entirely underground. I therefore concur with the Council's view, expressed in their Written Statement, that the physical harm to the Green Belt would be minimal.
9. There remains, I suspect, an underlying concern that permission is being sought for this development with, perhaps, another development in mind. However, that would have to be considered on its merits and I see no reason why the grant of permission for this development should help to justify further development if that development is itself inappropriate in the Green Belt.
10. In the circumstances I conclude that the development subject of this appeal is not inappropriate development in the Green Belt.
11. Turning to other matters, I have had regard to concerns raised as to highway safety, but note that there is no objection from the Essex County Council and it seems to me that, if operated under the 28 day rule, the level of use would be unlikely to have a significant impact. I also note fears that the intended use might not be operated responsibly but, whilst this is not directly before me, tend to concur with the views expressed in the Council's Report to Committee, which suggest that the Camping and Caravanning Club would revoke their licence if it was breached. Finally, I have also had regard to points made as to

flood risk, but agree with the Council that the proposed development would only cause a negligible increase in surface water run-off and agree that conditions could be imposed with regard to additional details regarding the cesspool and the foul water drainage.

12. Thus I conclude that the development is not inappropriate development in the Green Belt and is acceptable in terms of the NPPF, and with policies G2A, GB7A, ST4, and U2B of the Council's Local Plan, which are broadly consistent with the NPPF, and to which I have accorded due weight. I shall therefore grant planning permission, but subject to the Council's suggested conditions. Condition 1 is required so as to comply with the requirements of section 91 of the 1990 Act (as amended). Condition 2 is necessary to ensure that the proposal is built in accordance with the approved drawings, and condition 3 to ensure that a satisfactory surface treatment is provided in the interests of highway safety, visual amenity, and flood risk reduction. Condition 4 is needed in order to prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway, in the interests of highway safety, whilst condition 5 is required so as to ensure satisfactory provision and disposal of foul and surface water in the interests of public health.

Formal Decision

13. The appeal is allowed and planning permission is granted in respect of the revised application for engineering works comprising formation of roadway and installation of cesspool, at Great Notts, Moreton Road, Ongar, CM5 0LU, in accordance with the terms of the application, Ref EPF/1043/13, dated 23 May 2013, subject to the following conditions:
- (1) The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
 - (2) The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 2467-01, 2467-02.
 - (3) No development shall take place until details of the proposed surface materials for the roadway have been submitted to and approved in writing by the Local Planning Authority. The agreed surface treatment shall be installed and retained thereafter, unless otherwise agreed in writing by the Local Planning Authority.
 - (4) Prior to commencement of works, details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times thereafter.
 - (5) No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.

Felix Bourne

Felix Bourne INSPECTOR

Appeal Decision

Site visit made on 15 September 2014

by C A Newmarch BA(Hons) MRICS MRTPI

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

Decision date: 30 September 2014

Appeal Ref: APP/J1535/A/14/2219295

The Acres, Bournebridge Lane, Stapleford Abbots, Romford RM4 1LU

- 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 Mark Moseley against the decision of Epping Forest District Council.
 - The application Ref EPF/1683/13 dated 8 August 2013, was refused by notice dated 12 February 2014.
 - The development proposed is the 'retention (with modifications) of' an agricultural building and the erection of an agricultural building.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural building and the erection of an additional agricultural building at The Acres, Bournebridge Lane, Stapleford Abbots, Romford RM4 1LU in accordance with the terms of the application, Ref 2013/6765/P, dated 8 August 2013, subject to the conditions in the attached schedule.

Background and procedural matters

2. Building 1 was erected without planning permission. An appeal (Ref APP/J1535/C/12/2172455) against the Council's enforcement notice, Ref ENF/0027/11, was dismissed in September 2012 on the basis that the appellant had failed to show the building to be demonstrably necessary for the purposes of agriculture. It was therefore found to be inappropriate development in the Green Belt, that it detracted from the openness of the Green Belt; and that no very special circumstances existed to outweigh the identified harm.
3. The notice required the removal of the building and all resulting materials from the land within 3 months. It became effective following an unsuccessful High Court challenge on 24 May 2013, with a compliance date of 24 August 2013.
4. The Council has, however, suspended its action to secure the enforcement notice, pending the outcome of this appeal.
5. The description of development on the application form refers to the 'retention' of an agricultural building. However, as retention is not an act of development, I have considered the appeal as being against the refusal of retrospective planning permission for an existing agricultural building and the erection of an additional agricultural building. For convenience I shall refer to the existing building, identified as 'cattle barn' on the submitted drawing, as Building 1, and

to the 'proposed barn' as Building 2. The appellant contends that Building 2 is required in association with the existing building.

Main Issues

6. There is no dispute that the site is in the Green Belt. Accordingly, the main issues are:
- whether the buildings would be inappropriate development in the Green Belt; and if not:
 - the effect on the openness of the Green Belt;
 - the effect on the living conditions of neighbouring occupiers in relation to noise and disturbance, and odours.

Reasons

Whether the buildings would be to inappropriate development

7. Policy GB2A of the Epping Forest District Local Plan Alterations, 2006 (LP), provides that planning permission will not be granted for, among other things, new buildings in the Green Belt unless it is appropriate in that it is for a purpose listed in the policy. The policy goes on to include the purposes of agriculture as being appropriate to the Green Belt. This is broadly consistent with paragraph 89 of the National Planning Policy Framework (NPPF), which states that the construction of new buildings in the Green Belt should be regarded as inappropriate, but identifies specified exceptions to this, including buildings for agriculture. In accordance with paragraph 215 of the NPPF, I give LP policy GB2A considerable weight.
8. LP policy GB11 provides additional criteria for the development of agricultural buildings in the Green Belt, the most relevant of which are that the proposals are demonstrably necessary for the purposes of the agricultural unit, that the development would not be detrimental to the amenities of nearby residents, or have an unacceptable adverse effect on highway safety. While the NPPF does not explicitly include such criteria in addressing the Green Belt, LP policy GB11 is generally consistent with the thrust for the protection of the Green Belt and its concern for the healthy communities in the NPPF. I give it, therefore, moderate weight in accordance with paragraph 215 of the NPPF.
9. In this instance, it is proposed to modify Building 1 to improve the airflow through the building to provide a building for the over-wintering of up to around 30 store cattle, and the occasional accommodation of sick or injured cattle at other times of year. Building 2 would be used for the storage of feed and equipment.

Building 1

10. The appellant's holding at Bournebridge Lane amounts to around 4ha. In addition to Building 1, there is a stable block, which abuts Building 1, and a small barn. These are, however, outside the appeal site, and do not form any part of my consideration of the appeal.
11. The appellant is a cattle trader, buying some 50 – 100 cattle each week from livestock markets and farmers. Most are sold directly to abattoirs or to farmers for rearing-on. It is submitted that periodically cattle are kept for a few weeks

or months, and that these are kept on land at Brentwood, where the appellant's mother lives, or at Shillingstone, Dorset, where his brother lives. The appeal site would be used for rearing cattle on a longer term basis, and would, therefore, be operated separately from the appellant's main business and shown separately in his accounts.

12. Neither the most relevant LP policies nor the NPPF specify a requirement that the financial viability of the proposed agricultural undertaking needs to be demonstrated. However, I consider that it is, together with other matters, a reasonable consideration in assessing whether there is an agricultural need for the buildings.
13. The submitted agricultural appraisal explains that in the summer the cattle will be at grass, either on the site or on rented land at an unspecified location. However, in the winter the cattle will need feeding on average once a day, and extra bedding will be necessary every 2 – 3 days. Welfare checks and the supply of water will also be necessary at least daily. The submitted 'Rudimentary Budget' indicates that the annual margin before labour for the enterprise at The Acres would be around £3,980. It is submitted that this would be a reasonable return for his labour, but the likely number of hours labour has not been estimated, and it is not clear whether these regular tasks could be undertaken by the appellant in conjunction with his main business.
14. The proposal includes alterations to Building 1 which would significantly improve the natural light and ventilation by replacing every second ridge tile with a ventilation tile, knocking out some breeze blocks along the top of the wall on the southern side at eaves level, and replacing the solid wooden doors with a gate. The submitted drawings also show that combined stock barriers and feed troughs would be introduced into the north elevation of the Building 1.
15. None of these changes, individually or collectively, would wholly overcome the limitations of the building for agricultural use due the restricted headroom caused by its roof structure. Nonetheless, the Council's agricultural adviser concedes that, by opening up the northern face of the building by providing the combined stock barriers and feed troughs the conditions would be more satisfactory for rearing cattle than exist at present.
16. Given the limited operational margin of this unit, the unspecified costs of the necessary alterations to Building 1 and the erection of Building 2, and the enforcement history on the site, I give some weight to the Council's concerns regarding risk of the buildings becoming redundant. However, since a need exists for winter accommodation for the cattle which are to be reared on the site and rented land elsewhere, on balance I find that with all the modifications now proposed, Building 1 would be required for the proposed agricultural use of The Acres.

Building 2

17. There is no dispute that Building 2 would be an agricultural building. It would be used for the storage of feed and equipment to support the cattle rearing in Building 1.

Conclusion on first main issue

18. For the reasons given, Building 1 and Building 2 do not amount to inappropriate development in the Green Belt. As such, they do not conflict with LP policy GB2A or the relevant criterion of LP policy GB11.
19. The parties have been given an opportunity to comment on the relevance of the judgement in the case of Redhill Aerodrome Ltd v SSCLG, Tandridge District Council, Reigate and Banstead Council [2014]. However, as I have found that the development would not amount to inappropriate development in the Green Belt, it does not affect my consideration of the appeal.

The openness of the Green Belt

20. Building 1 has an internal footprint of approximately 132sqm. Building 2 would measure some 18.3m x 8.3m. Together the buildings would detract from the openness of the Green Belt in the sense of keeping it undeveloped. However, paragraph 79 of the NPPF explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. In this instance, the agricultural buildings would not amount to urban sprawl or encroachment. They would not, therefore, conflict with the purposes of the Green Belt set out in paragraph 80 of the NPPF.

Living conditions

21. There is some disagreement between the parties concerning the noise and disturbance which would arise from increased traffic movements. However, it has not been demonstrated that there is any control over the use of the access at present, and the proposed management arrangements would not give rise to significant numbers of traffic movements.
22. Similarly the parties disagree concern the storage and disposal of effluent. However, there is no reason to doubt the appellant's intention to remove muck and to clean the building on a twice yearly basis. Some odour may occur at this time, but this is not uncommon in the countryside, and there is no objection from the Council's Environmental Health Officer to the proposed use on the basis of noise or smell. In any event, the neighbouring residential properties are situated at distances ranging between some 35m and 80m from the site. While the house at Bournebridge Farm 'virtually abuts the land at The Acres' it does not adjoin the appeal site, and is well separated from the cattle shed by the appellant's grazing land.
23. Cattle rearing at The Acres may result in some intensification of the use of the site, but it has not been demonstrated that the development of Buildings 1 and 2 would be materially harmful to the living conditions of neighbouring residential occupiers in relation to noise and disturbance or odours. It does not, therefore conflict with the relevant criterion of LP policy GB11, or with LP policy RP5A, which precludes development which would adverse environmental impacts.

Other matters

24. The Stapleford Abbots Parish Council is concerned about the effect of lorries using the site entrance on a potentially dangerous blind bend. However, there is no objection from the Highway Authority, and lorries are able to use the

access at present. It has not, therefore been shown that the development would materially harm to highway safety or conflict with the criteria in LP policy GB11.

25. The Old School House is a Grade II Listed building. However, it is some 90m from the appeal site, with abundant planting separating it from the appeal site. Accordingly, there would be no harm to the setting of this heritage asset.
26. I have considered the appeal decision (Ref APP/J1535/C/10/2126986 & 2126987) at Ivy Cottage, Bournebridge Lane, but as it relates to the layout and lighting of a car park, it has little in common with the appeal before me.

Conditions

27. I have considered the conditions suggested by the Council in the event of the appeal being allowed. A standard time limiting condition for the commencement of the development is necessary as Building 2 has not been built.
28. A condition is necessary to require the implementation and retention of the proposed works to Building 1 in the interests of animal welfare and improving its suitability for agricultural use. However, I take the Council's suggested wording that every second tile be replaced with a ventilation tile to be an error, as the proposal relates only to the ridge tiles rather than all the roof tiles. Otherwise than as set out in this decision and conditions, it is necessary that the development be carried out in accordance with the approved plans.
29. However, a condition precluding the use of Building 1 as a cattle barn until the details of the frequency, timing and size of the vehicles delivering feed, or the details of the management of the storage and disposal of manure, are agreed would not be reasonable or enforceable. A condition requiring the buildings to be demolished in the event of agricultural use ceasing within 10 years would conflict with paragraph 90 of the NPPF, and is not justified.

Overall conclusions

30. I have considered all other matters raised, but none outweighs my finding that the development would not result in material harm or conflict with the development plan policies or the NPPF. Notwithstanding the limited financial information before me, I accept that it would make some contribution towards the rural economy, and accords with paragraph 28 of the NPPF. The appeal is, therefore, allowed.

CA Newmarch

INSPECTOR

APP/J1535/A/14/2219295 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: KCC1545/01 08/13/cm, KCC1545/02 08/13/cb, KCC1545/03B 01/14/cb (Revised/January 2014), and KCC1545/04 01/14/cb, and shall be retained as such thereafter.
- 3) The modifications hereby approved to the building shown as 'Cattle Barn' on the approved drawings and identified as 'Building 1' in this decision letter shall be carried out within six months of the date of this decision. The approved modifications are: the replacement of every second ridge tile with a ventilation tile; the removal of seven breeze blocks from the southern wall of Building 1 at eaves height; the replacement of the double doors on the northern elevation of Building 1 with a gate; the formation of openings in the northern wall of Building 1 and the installation of combined stock barriers and feed troughs. All works shall be carried out in accordance with the drawings approved in Condition 2 above, and retained as such thereafter.

Appeal Decision

Site visit made on 16 September 2014

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 22 September 2014

Appeal Ref: APP/J1535/D/14/2223548

17 Emberson Way, North Weald, Epping CM16 6DL

- 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 Biren Patel against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/1052/14, dated 9 May 2014, was refused by notice dated 23 July 2014.
 - The development proposed is a two storey extension to rear of property together with first floor side extension built over existing garage to side.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the site visit I viewed the appeal property from the rear garden of No 15 Emberson Way.

Main Issues

3. The main issues in the appeal are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on the living conditions of the occupiers of No 15 Emberson Way, with regard to its height, depth and proximity.

Reasons

Character and appearance

4. No 17 is a detached property with a single storey garage to the side. The east side of Emberson Way is formed of similar two storey properties. There are some deviations to the prevailing pattern of development along this section of the road; for example No 15 has a 'mock' pitched roof above the garage and pitched roof front porch, No 13 does not have a garage, and the juxtaposition of the two garages between Nos 15 and 17 create a wider gap than is present between the other properties in the row. Nevertheless, the repeating pattern of the two storey gable end front elevations with single storey side garages in between makes a positive contribution to local distinctiveness.

5. The proposal would involve a two storey extension at the rear, projecting from the main rear wall by about 3m. The two storey extension would partially wrap around the side wall of the appeal dwelling facing No 15, up to the existing first floor landing window. The side element would feature a gable and would be located within 1m of the common boundary with No 15.
6. Although the side extension would be set well back from the main front wall of the appeal property, it would still be visible at street level from both Emberson Way and nearby Thornhill, and would interrupt the prevailing pattern of development along this side of Emberson Way. In addition, due to the height of the side gable, level with the main roof ridge, the development would not be subservient to the main roof of the dwelling. As such the appeal proposal would cause material harm to the character and appearance of the area. I do not consider that the use of matching materials would negate the harmful effect that it would have.
7. The appellant accepts that this type of development has not happened before to any of the houses in the street, but contends that the change would not stand out. For the reasons I have described, the height and position of the extension mean that it would be an incongruous feature within the street scene. Moreover, despite the wider gap between Nos 15 and 17, arising from the two garages being positioned together, the development would still be overly prominent when viewed from the public realm.
8. I conclude that the development would cause material harm to the character and appearance of the area. It would be contrary to Policy DBE 10 of the Epping Forest adopted District Local Plan (1998) (LP), which seeks to complement and where appropriate enhance the street scene and existing buildings, and Policy CP2 of the Epping District Local Plan Alterations (2006) which seeks to ensure the quality of the rural and built environment will be maintained, conserved and improved by, amongst other things, safeguarding the setting, character, and townscape of the urban environment.

Living conditions

9. The Council has expressed concerns about the potential for loss of light to rooms within No 15, due to the height, depth and proximity of the extension. No 15 has first floor windows to a landing and bathroom in the flank elevation facing the appeal site. The side/rear extension would project out beyond the first floor landing window in the flank wall of No 17, and would extend about 3m beyond the main rear wall of No 15. Although no daylight and sunlight assessment was submitted with the appeal, in my judgement as the extension would be over 3m away and broadly north east of No 15, the extension would be unlikely to unacceptably reduce the amount of daylight and sunlight penetrating these rooms. The Officers Report also notes that a 45 degree line from the kitchen window in the rear elevation would not be breached by the extension, and the dining room window is further away than the kitchen, thus light to these rooms is unlikely to be materially reduced.
10. For these reasons I conclude that there would not be any materially adverse effect on the living conditions enjoyed by the occupiers of No 15 Emberson Way. Thus the development would accord with LP policy DBE9, which seeks to ensure development does not result in an excessive loss of amenity for neighbouring properties. This policy is consistent with the Framework, insofar

as it requires a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

11. The occupants of No 15 are also concerned about the impact of the development on their privacy. In this regard, the new bathroom window would be within 1m of the shared boundary as a result of the development, but could be obscure glazed by condition. Furthermore, the relationship between the existing landing windows at Nos 15 and 17 would remain unchanged in terms of privacy, as there is already a degree of mutual overlooking between the properties from this aspect. Finally, overlooking from rear windows in the extension into the garden of No 15 is not expected to be materially worse than the level of mutual overlooking that exists at present and is typical of suburban residential environments. Accordingly I can afford this matter only limited weight.
12. I have had regard to all other matters raised, including additional pressure on drainage and increased flood risk, damage to foundations and noise and disturbance and damage to roads arising from construction if the appeal were allowed. However, based on the information before me, these matters would not constitute reasons to dismiss the appeal. Finally, disputes relating to party walls are outside the scope of this appeal.

Conclusion

13. Whilst I have not agreed with the Council in terms of the effect of the proposal on the living conditions of neighbours, this does not outweigh or negate my concerns regarding the effect of the development on the character and appearance of the surrounding area.
14. For the above reasons and having due regard to all other matters raised I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR