

Appeal Decision

Site visit made on 2 February 2016

by **Daniel Hartley BA (Hons) MTP MBA MRTPI**

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

Decision date: 11 February 2016

Appeal Ref: APP/J1535/W/15/3139019

21 Princes Close, North Weald Bassett, Epping CM16 6EN

- 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 A Mellows against the decision of Epping Forest District Council.
 - The application Ref EPF/1440/15, dated 16 June 2015, was refused by notice dated 9 September 2015.
 - The development proposed is the erection of a single storey dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey dwelling at 21 Princes Close, North Weald Bassett, Epping CM16 6EN, in accordance with the terms of the application Ref EPF/1440/15, dated 16 June 2015, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the proposal upon (i) the character and appearance of the area; and (ii) the living conditions of the occupiers of surrounding properties in respect of outlook and disturbance.

Reasons

Character and appearance

3. The proposed bungalow (with two car parking spaces) would be built in part of the rear garden of 21 Princes Close. It would have its own vehicular access onto High Road and all of the trees on the site would be retained.
4. The dwelling would be approximately 3.8 metres in height to the ridge and would continue the existing building line along High Road to the north east of the site. This building line includes a petrol filling station and a number of detached dwellings. I acknowledge that the building line to the south west of the site (the rear of properties on Princes Close) is different, but I do not consider that there is any harm in following the building line to the north east.
5. The one bedroom bungalow would be single storey and much smaller in scale than the surrounding residential development. Taking this into account, along with the retention of existing trees on the site (and on the highway verge), the dwelling would not appear prominent nor conspicuous in the street scene.

6. The dwelling would not be built up to the side boundaries of the site and a proportionate amount of private outside space would be provided. Therefore, I do not consider that the property would appear cramped within its plot. Furthermore, the resultant garden area for 21 Princes Close would continue to be larger than most of the other rear gardens in the locality.
7. I conclude that the proposed dwelling would not cause harm to the character and appearance of the area, and would accord with the design aims of saved Policies CP2 and DBE1 of the Epping Forest District Adopted Local Plan 1998 (LP).

Living Conditions

8. The north facing side elevation of the dwelling would face properties on Cunningham Drive. This would be at a distance of approximately 12 metres from the nearest property. Taking into account the height of the dwelling, the screening effect of boundary fencing, and the distance from windows, I do not consider that the proposal would result in a material loss of outlook for the occupiers of these properties. The rear windows of numbers 21 and 22 Princes Close would be a significant distance from the proposed dwelling, and again the scale of the proposed development (coupled with the boundary treatment) would be such that it would not lead to a significant loss of outlook.
9. Whilst I acknowledge that the proposal does including two car parking spaces, and that there could be more day to day activity on the site than is currently the case, I do not consider that the degree of movement and activity from one dwelling would be such that it would result in significant levels of disturbance for the occupiers of the neighbouring residential properties.
10. I conclude that the proposal would not have a materially harmful effect upon the living conditions of the occupiers of neighbouring properties, and therefore the proposal would accord with saved Policies DBE2 and DBE9 of the LP which aim to safeguard the amenities enjoyed by the occupiers of existing properties.

Other Matters

11. I have considered the comments made by interested parties who have referred to "garden grabbing". There is no policy before me that specifically precludes housing development in gardens. In any event, I have found that the proposal would not cause harm to the character and appearance of the area.
12. The proposal includes space for the parking of two vehicles. The level of on-site car parking provision would be acceptable, and there was no objection to the proposal from the Highway Authority. I have no reason to disagree with their conclusions. Concerns have been raised about drainage, but I am satisfied that this matter can be controlled by a planning condition.
13. I have not been provided with any evidence to substantiate the comment that the proposal would encroach into the garden area of 22 Princes Close. The approval of planning permission would not, in any event, outweigh private property rights. Given the scale, position and design of the dwelling, I do not consider that it would lead to a material loss of light nor privacy for the occupiers of surrounding residential properties.
14. Comments have been made to the effect that the proposal would have an adverse effect on the water pressure in the area and that house values will fall.

I have no objective evidence to substantiate the claim relating to water pressure and effects on property values are not material planning considerations.

15. Representations have been made to the effect that the rights of the occupiers of some properties in relation to Article 8 of the European Convention of Human Rights, as incorporated into domestic law by the Human Rights Act 1998, may be violated if the appeal were allowed. I do not consider that the proposal would unacceptably interfere with these rights, because I have concluded that the development would not have an adverse impact upon the living conditions of the occupiers of surrounding properties, nor upon the character and appearance of the area. The degree of interference that would therefore be caused would be insufficient to give rise to a violation of rights under Article 8.
16. None of the other matters, nor the comments made by interested parties, outweigh my conclusions on the main issues.

Conditions

17. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
18. Planning permission is granted subject to the standard three year time limit condition.
19. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect.
20. In the interests of the character and appearance of the area, it is necessary to impose conditions relating to materials, landscaping and the protection of trees. In order to safeguard the living conditions of occupiers of the dwelling and surrounding properties, it is necessary to impose conditions relating to contaminated land and hours of construction. In the interests of highway safety, it is necessary to impose conditions relating to construction vehicle wheel washing, surface water drainage and the construction of the access with High Road.
21. I do not consider that it is necessary to remove permitted development rights. The Planning Practice Guidance states that "*conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances*".

Conclusion

22. The proposed development would not have an adverse effect on the character and appearance of the area, nor upon the living conditions of the occupiers of neighbouring residential properties. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

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: Location Plan, 2015/009/P02, 2015/009/ P03 and 2015/009/P04.
3. No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes to the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details.
4. No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
5. No development shall take place until details of 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.
6. No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and an implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, shrub or plant that tree, shrub or plant or any replacement is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place.
7. No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - recommendations) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved documents.

8. The proposed use of this site has been identified as being particularly vulnerable if land contamination is present, despite no specific former potentially contaminating uses having been identified for this site. Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of non-soil forming materials be found, then all development works should be stopped, the Local Planning Authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the Local Planning Authority prior to the commencement of development works. Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to the Local Planning Authority to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
9. All construction/demolition works and ancillary operations, including vehicle movement on site, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays.
10. Prior to first occupation of the development, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The access shall be provided with an appropriate dropped kerb vehicular crossing of the footway and verge. The access shall thereafter be retained as approved.
11. No private surface water shall discharge from the development onto the highway.