



Appeal Decision

Site visit made on 2 December 2019

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2019

Appeal Ref: APP/J1535/W/19/3233741

48 Russell Road, Buckhurst Hill, IG9 5QE

- 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 David Saunders against the decision of Epping Forest District Council.
 - The application Ref EPF/2483/18, dated 7 September 2018, was refused by notice dated 11 February 2019.
 - The development proposed is demolition of the existing bungalow and erection of five flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In response to the appellant's appeal statement, which included a parking survey, the Council confirmed that its first reason for refusal had been overcome and that it would not be defended.

Main Issue

3. In light of the above, the main issue is the effect of the development on the integrity of the Epping Forest Special Area of Conservation (SAC).

Reasons

4. The SAC has statutory protection under the Habitats Regulations. This is recognised in Policy NC1 of the Epping Forest District Local Plan (1998) (LP). More recently, the Council has submitted its Draft Epping Forest Local Plan (Submission Version 2017) (emerging LP) for examination. Policies DM 2 and DM 22 seek to ensure that adverse impacts do not occur, and that SAC integrity is protected, specifically impacts derived from recreation/tourism and in relation to air quality. These policies are a material consideration but in the absence of any information about potential unresolved objections and given that the outcome of the examination remains unknown, they attract only limited weight.
5. The introduction of 5 dwellings, in replacement of a single bungalow, would be likely to increase the number of households and occupants. In turn, this would likely give rise to increased pressures on the SAC from people visiting for walks or other recreational pursuits and through impacts on air quality from additional vehicular movements, particularly in combination with other new

- residential development close to the SAC. Taking a precautionary approach, the development would be likely to result in significant adverse effects on the flora and fauna within the SAC and its overall integrity.
6. The appellant does not dispute the need to mitigate such effects if the development is to be allowed and has provided two separate Unilateral Undertakings. The first provides for a financial contribution towards strategic access and management measures in the SAC, an approach agreed between the Council and Natural England. However, the undertaking is not dated and not, therefore, properly executed as a deed.
 7. The second undertaking is in draft form only and is provided for use in a scenario where the Council and Natural England have agreed measures (including an appropriate financial contribution) to deal with air quality impacts arising from development. No agreement has been reached to date and there are no strategic measures in place to mitigate or avoid the harm that would arise to air quality in the SAC.
 8. The appellant refers to other decisions by the Council, including a scheme at White Lodge, where conditions were used to mitigate air quality impacts. I do not have full details of this case or the evidence before the Council in reaching its conclusion. I have considered this proposal on its own merits and having regard to the evidence before me, as the competent authority in this case. I am not satisfied that a construction management statement; requirement for electric charging points or a sustainable travel pack; landscaping; the requirements of the Building Regulations; or the location of the site close to services, facilities and public transport would mitigate the impact of the development on air quality, even as a package of measures.
 9. The existing bungalow could have provided more parking spaces, but a single dwelling would nonetheless be likely to generate far fewer vehicular movements than five individual households. There is no guarantee that any of the occupants would make use of electric vehicles or choose to travel by sustainable means, particularly as four parking spaces are proposed on site.
 10. In the absence of appropriate mitigation, I can only conclude that the development would result in significant adverse effects to the SAC that would harm its integrity. This would be in conflict with policy NC1 of the LP and policies DM 2 and DM 22 of the emerging LP, as well as the requirements of the Habitat Regulations.
 11. I have had regard to the range of benefits that would arise from the development identified by the appellant, which together attract significant weight. However, they do not alter or outweigh the harm that I have found. Given the outcome of my appropriate assessment, the presumption in favour of sustainable development contained within the National Planning Policy Framework does not apply.

Conclusion

12. In light of the above, the appeal is dismissed.

Michael Boniface

INSPECTOR