
Appeal Decision

Site visit made on 15 January 2020

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/J1535/W/19/3238741
38 Honey Lane, Waltham Abbey EN9 3BS

- 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 Regent Lodge Limited against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0140/19, dated 7 January 2019, was refused by notice dated 17 July 2019.
 - The development proposed is the demolition of the existing dwelling and detached residential annexe, removal of existing vehicular access, and construction of new residential apartment blocks containing 14 dwellings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of the application implied the 14 units were to be accommodated in only one block when in fact 2 are intended. I have amended the above description accordingly.

Main Issues

3. The main issues in this case are
 - a) the effect of the scheme on the character and appearance of the area and
 - b) whether it would have a likely significant effect on the integrity of the Epping Forest Special Area of Conservation (the SAC)

Policy

4. I consider there is a reasonable likelihood that Policy DM9(H) in the emerging *Epping Forest District Local Plan* will be adopted in a similar form to that before me and so I afford it significant weight. However, the policies from the emerging Local Plan concerning issue (b) relate to some of the Actions suggested by the Inspector examining that plan and so could well change in the future in response to those Actions. The weight I have given them is therefore limited.

Reasons

Character and appearance

5. No 38 is a large detached house dating from the inter-war years that is raised up above Honey Lane. To the south-east both sides of the road are lined by terraced, semi-detached and detached Edwardian housing. These properties are of a form, style and detailing that is heavily reflective of that period. Edwardian housing is also found on the opposite side of the road to the appeal site to the north-west. Although of a sympathetic appearance to these older houses, No 38 is nonetheless distinctly different due to its larger frontage, its wider plot and its simpler design.
6. Moreover, despite the presence of the Edwardian houses, in the immediate vicinity of No 38 a range of other styles can also be seen. Next door, to the north-west of the property, there are the 2-storey prefabricated houses on Roundhills, with the endmost one offering its striking gable to Honey Lane over an intervening area of open space. Furthermore, relatively modern housing is opposite on Honey Lane and along Rosebank, while on that junction is a distinctive club building.
7. Taking these factors together, whilst the Edwardian houses are noticeable on this length of the road, to my mind they do not define its character or appearance. Rather, with regard to the type and design of properties the streetscape around No 38 is one of diversity.
8. The existing house is not a designated or non-designated heritage asset, and so its loss could not be resisted in relation to this issue. What is proposed is 2 blocks either side of a central access to a rear car park. Each block would be 4 storeys high but would be located at a lower level than No 38 now is. They would be of a contemporary design that the appellant said would be a modern re-imagination of Edwardian proportions.
9. Within this streetscape I consider the bulk and grain of each block would reflect building sizes found in the locality, while the sizeable rear area and the space to each side would ensure they did not appear unduly cramped. Moreover, the heights of their roofs and eaves would be lower than those on the house to the south-east and they would be following the fall of the land, and so they would not be unduly dominant or jarring.
10. Turning to design, each block would have a vertical emphasis and a bay treatment that would allude to the Edwardian housing nearby, though would still maintain its own identity and, to my mind, would sit comfortably in the diverse building styles around Honey Lane's junctions with Roundhills and Rosebank. Detailing and materials could be controlled by condition, and there is no reason to consider that any of the protected trees would be harmed by the works.
11. Accordingly, I therefore conclude that the design, form and scale of these 2 blocks would not be discordant in this streetscape, and would not result in a built form that was alien or incongruous. As a result, the proposal would not detract unacceptably from the character or appearance of the locality and so would not conflict with Policies CP3 and DBE1 in the adopted *Epping Forest District Local Plan* (as altered) or Policy DM9 in the emerging Local Plan, all of

which broadly seek development that respects, contributes to and safeguards the character and appearance of an area.

The effect on the SAC

12. The need to protect and safeguard Special Areas of Conservation are considered in the light of the *Conservation of Habitats and Species Regulations 2017* (the Regulations), with the aim of maintaining or restoring, at favourable conservation status, the natural habitats and species. Before deciding to give permission for a plan or project that is likely to have a significant effect on a European site, the decision-maker (competent authority) must make an appropriate assessment of the implications for the site in view of the site's conservation objectives. The competent authority can then only permit the plan or project after having ascertained there would be no adverse effect on the integrity of the site.
13. This SAC is one of the last areas of large-scale woodland pasture in the south of the country. Its designation is because of the presence of 3 qualifying habitats (Atlantic beech forest, European dry heaths and Northern Atlantic wet heaths), as well as one species (the stag beetle). The conservation objectives of the SAC are to ensure the integrity of the site is maintained or restored as appropriate and to ensure it contributes to achieving favourable conservation status of its qualifying features.
14. On the evidence before me, there are 2 ways in which residential development could impact the SAC. The first of these is through disturbance and damage from increased recreational activity by the visitors. The SAC is a popular place to walk and exercise, yet this can result in a pressure that causes harm to species and habitat through trampling, erosion, dog waste, general plant destruction and so on.
15. The second pathway that could result in effects on the SAC is from atmospheric pollution arising from increased car traffic, especially through the SAC and at the road junctions within the SAC. The qualifying features of the SAC are sensitive to atmospheric change as certain pollutants could accelerate or damage plant growth.
16. Surveys have shown that about half the visits to the SAC are made by those living within 3km of the boundary, and this would include the residents of the appeal site. Similarly, the closeness to the SAC and the importance of its roads in relation to Waltham Abbey in general and Honey Lane in particular mean there is a strong probability that the traffic associated with this scheme would use them and so contribute to the atmospheric pollution. The development is therefore likely to contribute to further damage to the SAC.
17. In assessing these impacts, I have noted the scale of the proposal. However, under the Regulations the impact must be considered both alone and in combination with other plans and projects. Therefore, whilst the impact of this scheme, by itself, may be slight, when taken with other similar schemes across the District there could be a cumulative harm to the integrity of the SAC.
18. In relation to the second pathway, the appellant has suggested that the effect on integrity could be mitigated by the thermal efficiency of the new buildings, the nature and intensity of occupancy, the avoidance of the need for gas and oil boilers, the presence of electric vehicle charging facilities and the limited on-

site parking, as these would minimise the environmental footprint of the residents. However, there is no firm evidence to show the benefits of this or that its impact would off-set the effects of pollution from any additional traffic movements through the SAC. It has been suggested a condition could be imposed (though no wording has been offered) requiring a programme of mitigation to be agreed or the preparation of a strategy that embodies measures similar to those cited above. Again though I have no certainty this condition, even if it could be drafted in a way that complied with the tests in paragraph 55 of the Framework, would result in development that was not likely to affect the integrity of the SAC, in line with the requirement in the Regulations. Moreover, notwithstanding my concerns about the appellant's approach to this pathway, no means of addressing the other pathway, relating to recreational pressure, has been secured and so that impact is not to be mitigated.

19. The appellant has also contended that the development plan policy in relation to these impacts is not precise enough to support a refusal. However, the need to address impacts on an SAC arise not from the development plan but from national legislation. As such, any deficiencies in the cited policies in this regard are not decisive.
20. I therefore conclude that, when considered in combination with other plans and projects, the development would adversely affect the integrity of the SAC and in the absence of mitigation I cannot conclude the proposal would not be likely to affect the integrity of the SAC. As such, it would be in conflict with the Regulations and the Framework.

Other matters

21. The separation distances would be sufficient to mean the proposal would not be unduly dominant when seen from neighbouring houses. Moreover, I have no reason to consider on-site parking is not sufficient and so find there would not be a harm to highway safety.

Conclusions

22. Whilst I consider the effect on the character and appearance of the area would not be unacceptable, the failure to find it would not be likely to affect the integrity of the SAC means I conclude the appeal should be dismissed.

Jeremy Sargent

INSPECTOR