



Appeal Decision

Site visit made on 23 November 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2021

Appeal Ref: APP/J1535/W/20/3256223 37 Hillyfields, Loughton IG10 2PT

- 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 S Tappenden (SJT Developments Ltd) against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/2561/19, dated 1 October 2019, was refused by notice dated 20 January 2020.
 - The development proposed is described as 'The Original application and approval on this site under EPF/2913/16 was restricted in its layout by the expectation of the existence of a drain run running north-south on the eastern section of the site. Drainage records have since been found to be incorrect and no drain exists on the site. With the approved layout of the 7 units under EPF/2913/16 there remains a portion of the site that can accommodate an additional dwelling with its garden and parking. This application is for a 4-bedroom 1520 sq ft two storey house on that portion of the site'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposal has been altered on the Council decision notice. The original description however adequately describes the proposal and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - i. whether there would be an adverse effect on the integrity of the Epping Forest Special Area of Conservation (SAC);
 - ii. the effect of the proposed dwelling and landscaping arrangements on the living conditions of adjoining residents; and
 - iii. whether the increase in car parking provision would increase the reliance on journeys by private motor vehicle.

Reasons

4. The wider site has recently been developed for 7no. terraced residential dwellings. A space between the most easterly dwelling and the eastern boundary of the site has been left vacant. It is within this gap that it is proposed to place a 4 bedroom detached dwelling. Properties on Coteford Close

and their gardens sit to a lower level to the east, although the length of those gardens is substantial where they adjoin the appeal site.

Integrity of the SAC

5. The evidence before me indicates that the appeal site is within 3km of the Epping Forest SAC and therefore within the zone of influence of the protected site. The SAC has been designated primarily for its habitat value in respect of beech trees and wet and dry heaths.
6. Potential harm is identified, associated with increased leisure use of the SAC and as a result of increased traffic which has the potential to adversely affect the SAC as a result of its detrimental impact on air quality. The provision of a new dwelling raises the potential that harm could arise to the SAC in both these respects.
7. However, the information within the appeal around potential impact on the SAC is limited, and there is no evidence of consultation with Natural England. As a consequence, there is not enough information to determine that there would be a likely significant effect on the SAC either alone or in combination with other plans and projects.
8. I must therefore adopt a precautionary approach. The precautionary principle requires that where it is unclear whether an effect would be significant, it must be assumed that it would be, unless there is objective evidence to the contrary.
9. The evidence suggests that the parties agree that mitigation would be required to offset the impacts of the proposal. The potential for a financial contribution to offset increased leisure use of the SAC is identified within the evidence, while the Council appears to be undertaking wider work in conjunction with Natural England around an air pollution mitigation strategy. However, this does not yet appear to be complete and I have not been provided with details as to what appropriate mitigation in relation to air quality issues would be.
10. In any event, there are no mitigation measures secured within the appeal through any planning obligation or other appropriate mechanism. It would not be reasonable to add a condition restricting the commencement of development given that mitigation requirements are at this point unknown and none have been put forward with the appeal in any event.
11. The proposal would therefore be likely to adversely affect the integrity of the Epping Forest Special Area of Conservation and would fail to accord with Policy CP1 of the Epping Forest Local Plan (1998) & Alterations (2006) (EFLP) which requires that proposals avoid or minimise impacts of development on the environment. The proposal would also fail to accord with policies DM2 and DM6 of the Epping Forest Local Plan Submission Version (2017) (EFLPSV) which amongst other things require relevant proposals to assist in the conservation and enhancement of the SAC and seek to protect the district from the impacts of air pollution. I have not found conflict with Policy CP6 of the EFLP which relates more to development patterns.

Living conditions of adjoining residents

12. The detached property would be placed at the eastern end of the existing terraced dwellings. The evidence indicates that this part of the site was left vacant at the time of the original submission due to concerns over the potential

- presence of a surface water main, that has since been confirmed not to be present.
13. The application site sits at a greater height than the rear gardens of properties on Coteford Close to the east and the dwelling would be sited close to the boundary. However, in spite of this, it would not be excessive in scale and it would be set well away from the rear elevations of the properties by reason of their lengthy gardens. It would also incorporate blank elevations facing east at first floor level. While the dwelling would clearly form a notable feature when viewed from the rear gardens, it would not be a feature that would be unexpected within a fairly densely developed urban environment.
 14. Within the context of the site and surrounds, the dwelling would not appear excessively overbearing and dominant, nor would it harm the living conditions of adjoining residents.
 15. The plan showing the layout of the existing approved scheme has been put before me. It indicates the inclusion of an area of landscaping at the eastern end of the access court. This area of landscaping is not included within the proposal before me and instead the parking court and spaces to the north would run tight to the eastern boundary of the site.
 16. However, a close boarded timber fence bounds the eastern side of the site, which limits views between the access court and parking spaces within the appeal site and gardens to the rear of properties on Coteford Close. The omission of more substantial landscaping to this side of the site would result in a harder edge to the development than might otherwise have been the case. However, I cannot consider any effect on the living conditions of occupiers on Coteford Close to be significant given any effect would predominantly be felt at the bottom end of the gardens which are extensive in length.
 17. I have not therefore identified any significant harm to the living conditions of adjoining residents. The proposal would subsequently accord with Policies DBE2 and DBE9 of the EFLP which amongst other things seek to protect the living conditions of adjoining occupiers in relation to visual impact and other disturbance.
 18. Policy DM9 of the EFLPSV amongst other things requires high quality design in relation to landscaping within new housing development. Policy DM10 requires where appropriate development proposals to include enhanced provision of green infrastructure including the quantity and quality of landscaped areas. The use of the phrase 'where appropriate' suggests that such provision may not be required within all schemes. The site is tucked away to the rear of Hillyfields and not widely publicly visible while other areas of landscaping are provided within the site. I do not consider that the requirement for extensive landscaping would relate to a scheme of this scale and therefore consider that the proposal would not conflict with these policies.

Car parking provision

19. The evidence indicates that the proposal would increase the parking numbers from 14 spaces for 7 dwellings across the entirety of the site to 17 spaces for 8 dwellings. The Essex Parking Standards¹ have been drawn to my attention.

¹ Parking Standards Design and Good Practice September 2009 – Essex County Council

20. It suggests that providing a reduced number of parking spaces at a travel origin does not discourage people from owning a car and outlines a minimum parking provision of 2 spaces per 2+bedroom dwelling. The parking provision across the development would not therefore provide an over provision of parking when the 2 visitor parking spaces advocated by the standards are also taken into account.
21. In relation to sustainable transport choices, the supporting text to Policy T1 of the EFLPSV states that in relation to parking standards, the Essex County Council adopted Parking Standards will be the starting point. Amongst other things it suggests that within 400m of a railway station, the Council will seek reduced car parking, including car free development. However, the evidence indicates that the site is located significantly in excess of this distance from the nearest stations at Debden and Loughton. The impetus to reduce car parking levels from the standard is not therefore triggered.
22. I therefore do not find that the car parking provision would increase the reliance on journeys by private motor vehicle. The proposal would not therefore in this respect conflict with Policies CP1, CP6 and ST2 of the EFLP nor policies SP1 and T1 of the EFLPSV which amongst other things seek sustainable forms of development. Cycle parking could be adequately provided within the curtilage of the property were I minded to allow the scheme.

Other Matters

23. The 2020 Housing Delivery Test results indicate that the delivery of housing within the borough has been substantially below the housing requirement over the past three years. As a result, 'The presumption in favour of sustainable development' at paragraph 11 d) of The National Planning Policy Framework (the Framework) is relevant to the determination of this appeal.
24. However, in line with paragraph 11 d) i) I am required to consider whether the application of policies in the Framework that protect areas or assets of particular importance such as SPA's provide a clear reason for refusing the development. In relation to SPA's the Framework advises that development on land outside such a site, which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The proposal does not therefore benefit from the presumption in favour of sustainable development.

Planning Balance and Conclusion

25. While I have not identified any significant harm in relation to the living conditions of adjoining residents and car parking provision, the proposal would be likely to adversely affect the integrity of the Epping Forest Special Area of Conservation. I am required to afford significant weight to this matter. The appeal should therefore be dismissed.

T J Burnham

INSPECTOR