



Appeal Decision

Site Visit made on 13 April 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2021

Appeal Ref: APP/J1535/W/20/3260793

Land to the rear of 18 Russell Road, Buckhurst Hill IG9 5QJ

- 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 Richard Harris against the decision of Epping Forest District Council.
 - The application Ref EPF/1909/19, dated 26 July 2019, was refused by notice dated 15 April 2020.
 - The development proposed is described as “the erection of five dwellings with associated infrastructure and landscaping”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development in the banner above is taken from the application form. However, I note that the development was amended to deliver four dwellings and I have considered the appeal on that basis.
3. The appellant has provided amended plans in support of the appeal. These plans correct errors that were made in reducing the scheme from five dwellings to four dwellings and relate to bin storage location and minor revisions to the rear of Plot 4 which was previously incorrect. I have considered these amendments under the principles established by the Courts in *Wheatcroft*¹ and I am satisfied that the plans do not change the development to such a degree that to consider them would deprive those who should have been consulted on the drawing, the opportunity of such consultation. I have therefore determined the appeal on the basis of the plans submitted with the application and the amended plans.
4. The Council’s decision notice refers to the policies of the Epping Forest District Council Local Plan Submission Version 2017 (LPSV). The LPSV has not been adopted but is at an advanced stage, such that its policies may carry material weight in planning decisions.

Main Issues

5. The main issues in this appeal are the effect of the proposal on the:
 - character and appearance of the area,

¹ *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

- living conditions of future occupiers with particular regard to vehicle access, on-site parking and refuse storage arrangements, and
- Epping Forest Special Area of Conservation (SAC).

Reasons

Character and Appearance

6. The appeal site forms part of the rear garden area of a detached dwelling. The area is predominantly residential and contains a variety of style and size of property that are arranged in a linear manner. Dwellings tend to be set back from the road with parking areas and gardens to the front. Private gardens are to the rear of properties which largely contain domestic structures such as sheds, garaging and other such outbuildings. This gives the area a degree of uniformity and a pleasant suburban and open character.
7. The proposal seeks to erect two pairs of detached dwellings within the rear garden area and behind the host property. Each dwelling would be provided with its own rear garden space. Pedestrian access into the site would be via Russell Road with a footpath linking the proposed dwellings to the road. There is no proposal for vehicular access into the site.
8. The appeal site has a much larger garden area than its neighbours and straddles the rear of the gardens of those properties on Russell Road, as well as extending back to the gardens that serve properties on Roebuck Lane. As a result of the siting of existing properties that are in close proximity to one another, the layout of the proposal would not be readily apparent from Russell Road itself. However, it would be clearly visible from the rear of surrounding properties on Russell Road, Roebuck Lane, and Amberley Road, which back onto the site.
9. The appellant refers to a previous appeal² (the previous appeal) at the site and quotes the Inspector's reasoning that the development was acceptable in principle and that it would not harm the character of the area and would be seen as a "*discrete enclave of modern design*". From the layout plan that was submitted for consideration as part of the previous appeal, it is evident that the development sought permission for three dwellings and included a vehicular access off Russell Road into the site with parking areas provided in front of each unit.
10. Thus, notwithstanding the previous Inspector's findings, I am not persuaded that the proposed development must be viewed in the same vein as it is materially different as it does not include a vehicle access or parking areas close to the proposed dwellings, which are typically found to the front of dwellings in the area. Furthermore, the only connection to Russell Road would be via the creation of a footpath to the proposed dwellings linking it to the rear of the site. Given the lack of a vehicular access connecting the development to Russell Road, the proposal would be viewed as a small cluster of dwellings within a back land location that has no functional connection to the area that it surrounds. Additionally, being physically divorced and appearing as a separate and entirely isolated development, the proposed layout would fail to take account of the prevailing character of dwellings that are served by parking spaces and road accesses.

² APP/J1535/W/18/3204120

11. This lack of connectivity results in a development that is detached from its surroundings, failing to establish a strong sense of place by using the arrangement of streets and spaces to integrate successfully with the vast majority of frontage development in the area. In this instance, I find that the introduction of the form of back land development as proposed, to be contrived and quite out of character with the established pattern of frontage development that exists in the area.
12. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policies CP2, CP3, CP6 and CP7 of the Epping Forest District Council Local Plan and Alterations 1998 and 2006 (the LP) Policies SP2 and DM9 of the LPSV and paragraphs 117, 124 and 127 of the National Planning Policy Framework (the Framework) which seek, amongst other things, to ensure that developments safeguard and enhance the setting, character and townscape of the urban environment.

Living Conditions

13. The proposed dwellings would be set back from Russell Road by some 50m and proposes a footpath within the site to connect the dwellings to an existing pedestrian access that exists to the side of the host property. This area would also be used to store refuse and recycling bins for the proposed dwellings. The Council argue that as the dwellings are set back at such a distance, and without parking and vehicle access, this arrangement would provide a low level of amenity standard for future occupiers.
14. The appellant provided a traffic survey which reveals that there are some 50 unrestricted parking spaces available in the area. Notwithstanding that objectors to the development state that parking in some of the surrounding streets has changed to 'residents only parking' since the survey was undertaken, the Council did not object to the development on the ground that parking was not to be provided.
15. However, the Councils concern is not that dedicated parking has not been provided for the dwellings, it is the distance of the proposed dwellings from the road where one could realistically park a car. Although the appellant confirms that the development would be 'car free' I have not been provided with a mechanism to control this matter and, as four bedroom family dwellings, it is highly probable that occupiers of the development would own a car. There is nothing substantive before me to suggest otherwise.
16. Therefore, although there may be spaces available in the vicinity of the site for future occupiers to park vehicles, they would nonetheless still have to navigate down the side of the host property and a further distance to the dwellings. Although I acknowledge the health benefits associated with walking and that at 50m it falls far short of walking distances identified by the appellant in Manual for Streets, one has to accept that every journey undertaken by occupiers and visitors, in and out of the site, including those with mobility difficulties, those with children, those carrying shopping or other goods and every delivery to the site, would involve such a walk.
17. The appellant has revised the location of the bin collection point so that it is adjacent to the side of the host property. Occupiers would be required to move bins from the front of the proposed dwellings to the side of the host property on collection days. Although the location of the bin storage area would reduce

its impact on the street scene, the frequency of having to move the bins on a weekly or even bi-weekly basis, coupled with the distance involved for every trip in and out of the site, leads me to conclude that the development would not provide a satisfactory level of amenity for future occupiers of the dwellings.

18. Thus, the development would provide a low level of amenity for future occupiers. It would be in conflict with Policy DBE8 of the LP, Policy DM9(H) and DM10 of the LPSV and paragraph 127 (f) of the Framework which seek, amongst other things, to ensure that developments create places that are inclusive and accessible, with a high standard of amenity of existing and future users.

Epping Forest SAC

19. The site falls within the zone identified by Natural England as being likely to result in harm to the Epping Forest SAC. The appellant has provided a unilateral undertaking to provide a financial contribution towards mitigating the effect of the development on the SAC, which principally derives from recreational pressure and air pollution.
20. Had the proposal been acceptable in planning terms, as the competent authority it would have been necessary for me to undertake an Appropriate Assessment (AA), including any suitable mitigation measures. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for such an assessment is only necessary where the competent authority is minded to approve planning permission. As the appeal is being dismissed on other substantive matters, it is not necessary for me to consider this matter further, including the need to undertake an AA.

Other Matters

21. As outlined within the Council's submissions the preparation of the LPSV has reached an advanced stage. I note the appellant's comments that the LPSV is the subject of future modifications following issues which are stated to have been raised within its Examination in Public. Nevertheless, even if I had applied reduced weight to the emerging LPSV policies, the proposal would have still been dismissed as a result of the conflict found with the adopted LP as outlined above.
22. I recognise that the principle of residential development on the site is acceptable. Moreover, I also acknowledge that the design of the dwellings is also acceptable and that suitable materials could be employed. However, neither this nor any other material consideration that has been advanced outweighs the harm that I have identified above.
23. I note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

24. The appellant states that the Council cannot demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 11 d) ii of the Framework requires planning permission to be granted unless "*any adverse impacts of doing so would significantly and demonstrably outweigh the*

benefits, when assessed against the policies in this Framework taken as a whole."

25. The proposal would boost housing supply in the District and there would be economic benefits resulting from the construction of the new dwellings and Council Tax receipts. The occupants of the dwellings are also likely to assist the local economy through additional spending in the area. There may also be social benefits from the provision of four dwellings which is in a location that is close to amenities, services, and transport links. I also acknowledge that as a small windfall site, it could be developed out relatively quickly. Combined, given that the development is for four dwellings, I would attach moderate weight to these benefits.
26. However, good design and its impact on living conditions are key aspects of sustainable development as recognised by the Framework. Accordingly, given my findings outlined above concerning the resultant harm to the character and appearance of the area and the implications of this for the living conditions of future occupiers of the development, the proposal would fail to meet the environmental dimension of the Framework. Consequently, the harm I have found is serious and, in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development as envisaged by the Framework does not apply in this case. There are no other material considerations that indicate a decision other than in accordance with the development plan.
27. For the reasons given above, the appeal is dismissed.

Graham Wyatt

INSPECTOR