



Appeal Decision

Site Visit made on 29 June 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2021

Appeal Ref: APP/W5780/W/21/3266782

20 Latchford Place, Chigwell IG7 4QZ

- 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 L Curtis against the decision of the Council of the London Borough of Redbridge.
- The application Ref 2472/20, dated 31 July 2020, was refused by notice dated 9 October 2020.
- The development proposed is 'conversion of existing garage/workshop to rear of site to provide a one bedroomed bungalow.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The new London Plan was adopted on 2 March 2021. The Council considered the application against the policies of the previous London Plan (March 2016), but has indicated which policies of the new plan it considers are relevant to the proposal. The appellant's case has been made with reference to the draft policies of the new plan, as they were at the time, although the plan was close to adoption and not subject to change in the interim. I am satisfied, therefore, this update to the London Plan does not materially affect the parties' cases.
3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given an opportunity to comment on the relevance of this revision to the Framework to their respective cases, and I have had regard to the comments received.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on existing trees;
 - iii) the acceptability of proposed refuse facilities;
 - iv) the effect of the proposal on the Epping Forest Special Area of Conservation (SAC).

Reasons

Character and appearance

5. Latchford Place is a residential street of two storey, semi-detached dwellings standing parallel to the A1112 Romford Road. No 20 is the final dwelling of the

cul-de-sac section of the street at its north-western end. Beyond the site to the north and west is a heavily wooded area which is designated as a local nature reserve (LNR). To the rear of the site is a car park associated with a block of flats on Bocket Way. Another row of two storey pairs of semi-detached dwellings stands back-to-back with the dwellings on Latchford Place, and this linear pattern is repeated on surrounding streets and provides a distinctive suburban character to the wider area.

6. The proposal seeks to convert an existing single storey, flat-roofed outbuilding in the rear garden of the appeal site to a dwellinghouse. The existing roof would be replaced at a higher level to give an internal ceiling height of 2.5 metres and new fenestration would be inserted in the front elevation.
7. The proposed increase in height would be relatively modest; however, the proposal would be a form of backland development which would sub-divide the rear garden of the existing dwelling and create a separate dwelling at the rear of No 20. As a result, both the existing and proposed dwellings would have gardens markedly smaller in size and different in shape than most neighbouring properties. This would stand in stark contrast to the immediate surroundings, where the two lines of dwellings are separated by their respective rear gardens, the built form within which is limited to typical garden outbuildings ancillary in size and function. I neither saw, nor am referred to, other examples of backland development in the immediate area.
8. The addition of a further dwelling on the site would create a denser form of development at odds with this prevailing linear pattern and contrary to the rhythm, shape and spacious depth of plots along both Latchford Place and Bocket Way. I accept that the garden to No 19 is also shorter, part of it appearing to have been given over to the car park of the block of flats, but this is a single exception to the pattern and, even so, the proposal would result in the remaining garden of No 20 being even shorter in depth than that at No 19.
9. I accept that, in visual terms, the dwelling would only add modestly to the height of the existing garage; however, the character of the site would change significantly from an ancillary outbuilding within a single rear garden to a separate dwelling with its own access, parking and garden areas. In views from neighbouring gardens and windows, the proposal would form a conspicuous and jarring presence amid the largely open space between the rows of dwellings. The incongruous nature and location of the proposal would be exacerbated by the fact that the dwelling would be a bungalow amid two storey dwellings, and that it would be accessed through the car park of the block of flats to the rear.
10. I am referred to a 2018 appeal decision¹ on the same site. I understand this proposal related to a slightly different design for new two-bedroom dwelling on the site. However, whilst I have formed my own view, I note my findings tally with those of my colleague in terms of the effect of the dwelling's backland position on the prevailing pattern of development, and it appearing crammed onto the site.
11. For the reasons set out, I conclude that the proposal would significantly harm the character and appearance of the area. Consequently, there would be conflict with Policy LP26 of the Redbridge Local Plan 2015-2030 (March 2018)

¹ Appeal Ref: APP/W5780/W/17/3183862, dismissed 5 January 2018

(the Local Plan) and Policy D3 of the London Plan (March 2021) which together require design-led development of the highest architectural quality which is well integrated and has regard to the local character of the area, in terms of layout, form, style, massing, scale, density, orientation, materials and design.

Effect on Trees

12. The Council's concern relates to a mature tree located immediately behind the appeal building within the LNR, the indication being that its root system is likely to have spread onto the site within the proposed garden area to the side. However, the proposal does not include any outward extension of the building that would involve new foundations. Rather, the concern appears to be with the location of underground services – sewerage, water, power – to the proposed dwelling. Whilst I do not have details of where these utilities would be run, there is sufficient space within the site that the root protection area of the tree could be avoided during installation. Moreover, should the appeal succeed, a condition could be imposed requiring a method statement to be submitted detailing measures to protect this and other trees during construction.
13. Therefore, I am satisfied that the proposal could be undertaken without undue harm to the health of existing trees, and no conflict would arise with Policy LP38 of the Local Plan, which supports the retention of existing trees and landscape features where these can make a positive contribution and do not adversely impact upon the deliverability of the overall development.

Refuse and recycling

14. I am advised that Redbridge operates waste collection via black sacks in dustbins collected from the boundary of the property nearest the highway, rather than wheelie bins, though it is indicated that bins are currently being trialled and may be introduced at an unspecified date in future. Recycling can also be collected from the front of the property in dedicated recycling boxes.
15. The Council's Housing Design Supplementary Planning Document (September 2019) indicates the maximum distance the refuse collector should be required to carry dustbins is 23 metres and plastic sacks 25 metres. The dwelling is indicated to be some 45 metres from the nearest highway on Bocket Lane, via the car park and access of the adjacent block of flats, Pinewood Court. Given the distance involved, and the lack of visibility of the site from Bocket Way, there is a distinct possibility that refuse collectors would either be unwilling to collect refuse left immediately outside the property, or may not see it, and therefore fail to collect it. Uncollected refuse would carry significant risk to neighbours' living conditions in terms of smell, vermin and unsightly appearance.
16. The appellant indicates that refuse could be brought forward to the point where it is collected from Nos 1-10 Pinewood Court, some 30 metres in from the highway. However, this location is not specified on any plans, and I did not see a dedicated refuse area at my visit. Moreover, I am given to understand that Pinewood Court is private land, and there is no indication that future residents would be permitted to leave their refuse on land forming part of Pinewood Court, including the car park area immediately outside the proposed entrance to the dwelling. If not, occupants of the dwelling would be required to carry refuse a significant distance across third party land to a point adjacent to the highway for collection. Even if occupants are aware of this upon moving in, this

would be an onerous task, particularly given refuse can be heavy, dirty and bulky, and may lead to it being left indiscriminately around the area, to the detriment of neighbours' living conditions and the appearance of the area.

17. On the evidence before me, I am not satisfied that the proposal would make suitable provision for refuse collection. The Council cites conflict with Policy LP29 of the Local Plan; however this relates to private amenity space and is not directly relevant to this issue. Nonetheless, there would be conflict with Policy LP26, which promotes good design through, among other things, development that provides appropriate facilities for refuse, recycling and servicing and does not result in adverse impacts upon the amenity of neighbouring occupiers.

Effect on Epping Forest SAC

18. The appeal site falls within the 'Zone of Influence' for the Epping Forest SAC. The SAC is designated for the presence of several qualifying habitats and species. The conservation objectives of the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the favourable conservation status of its qualifying features. As the competent authority at the appeal stage, I have a statutory duty to ensure that the integrity of this area is not harmed.
19. I have no evidence of consultation with Natural England in respect of this specific scheme, and therefore must adopt a precautionary approach and assume, in the absence of evidence to the contrary, that the effects of more residents, both on their own and in combination with other development projects, is such that the proposal is likely to have significant effects on protected habitats and species in the SAC.
20. The evidence before me indicates that the Council, following consultation with Natural England, has in place a scheme for mitigating the impacts on the integrity of the SAC by securing financial contributions in the amount of £30 per dwelling, plus a monitoring fee of £90. A letter to the appellant from the Council is provided, which invites direct payment of these contributions by phone or online.
21. However, whilst the appellant indicates a willingness to make the contribution, there is no evidence that this contribution has been paid. The Planning Practice Guidance (PPG)² makes it clear that no payment of money or other consideration can be positively required when granting planning permission, but that it may be possible to use a negatively worded condition to prohibit development until a specified action has been taken, such as the entering into of a planning obligation. However, the PPG states that this is unlikely to be appropriate in the majority of cases and ensuring that any planning obligation is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed³.
22. There is no planning obligation before me in this case. Moreover, having regard to the PPG, the evidence before me does not indicate any exceptional circumstances which would justify use of a negatively-worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into. There are no other courses of action

² Paragraph: 005 Reference ID: 21a-005-20190723

³ Paragraph: 010 Reference ID: 21a-010-20190723

available to me through the appeal process. Consequently, the appeal proposal would fail to provide the appropriate mitigation.

23. As there is no mechanism in place by which the required mitigation can be secured and controlled, I cannot be satisfied that there would be no adverse effects on the integrity the SAC from additional recreational pressure arising from the proposed development.
24. Therefore, I must conclude that the appeal scheme would be harmful to the integrity of the Epping Forest SAC, and would conflict with the requirements of the Conservation of Habitats and Species Regulations 2017 and the guidance of the Framework, which indicates the presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site, either alone or in combination with other projects.
25. The Council's decision notice makes reference to Policies LP33 and LP38 of the RLP, however these relate to built heritage and trees and landscape respectively, and are not directly applicable to the proposal. Rather, the proposal would conflict with Policy LP39, which seeks to protect and enhance the borough's natural environment by, among other things, not permitting development which would adversely affect the integrity of Epping Forest SAC.

Other Material Considerations

26. The appellant argues that the proposal would be a sustainable form of development by making use of under-utilised land in an area of high accessibility. However, whilst the Framework supports development of under-utilised land, it also sets out that development should take into account the desirability of maintaining an area's prevailing character and setting, including residential gardens. Given the harm I have identified, the proposal would not maintain the area's prevailing character and so would not accord with the Framework in this respect. Therefore, I do not afford this consideration positive weight.
27. In terms of accessibility, the Council indicates that the site has a PTAL rating of 1b, indicating poor access to public transport. However, I saw a bus stop near to the site on Manford Way. This is served by a single route, which is limited in comparison to other parts of London, but it would provide an alternative transport option for residents. Local shops and other facilities are also within reasonable walking distance of the site. However, even with these alternative modes of transport, residents are still likely to rely mainly on the private car for transport. Therefore, I find that, at best, any environmental benefits in these respects would be modest.

Planning Balance

28. The appellant points to the Council's housing requirement, to the impetus of the London Plan to deliver smaller housing developments, and to a shortfall in delivery set out in the Housing Delivery Test, the Council recording 59% in 2019. These figures are not disputed by the Council and I note that the Council's 2020 figure stands at 60%. In such circumstances, Footnote 8 of the Framework indicates that policies most important for determining the application should be regarded as out-of-date.
29. However, notwithstanding this, Paragraph 11(d)(i) indicates the 'tilted balance' is not engaged where the application of policies in the Framework that protect

areas or assets of particular importance provides a clear reason for refusing the development proposed. The Epping Forest SAC is one such area or asset. Given my finding that the proposal has the potential to adversely affect a site of nature conservation designation, Paragraph 11 does not indicate a presumption in favour of development. Instead, the proposal falls to be determined against the development plan, taking account of other material considerations.

30. The proposal would deliver an additional small dwelling that would add to the Borough's and London's housing stock and meet with national aims to boost the supply of housing. There would be economic benefits from construction of the dwelling, though these would be temporary, and from subsequent economic activity by future residents in the local area. However, these benefits would ultimately attract modest weight given the small scale of the proposal.
31. In my judgment, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the several identified conflicts with the development plan and would not justify a decision being made other than in accordance with the development plan, taken as a whole.

Conclusion

32. Therefore, for the reasons given, and taking all relevant matters into consideration, the appeal should be dismissed.

K. Savage

INSPECTOR