



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: 31 August 2021

Appeal Ref: APP/W5780/W/21/3268062

72 Airthrie Road, Goodmayes, Ilford IG3 9QU

- 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 Wong against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 3510/20, dated 21 October 2020, was refused by notice dated 18 December 2020.
 - The development proposed is 'erection of part 1, part 2 storey rear extension, first-floor side extension, loft extension to accommodate conversion of the existing dwellinghouse into 1x3-bed flat, 1x2-bed flat and 1x1-bed flat.'
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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 that the parties have had the opportunity to address this update to the London Plan.
3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the 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) whether the proposal would be suitably located and would provide an appropriate mix of housing, in particular with respect to the loss of a larger family-sized dwelling;
 - ii) the effect of the proposal on the character and appearance of the area, and;
 - iii) the effect of the proposal on the Epping Forest Special Area of Conservation (SAC).

Reasons

Housing Location and Mix

5. Policy LP5 of the Redbridge Local Plan (March 2018) (the RLP) aims to secure a range of homes that will contribute to the creation of mixed, inclusive and sustainable communities by seeking all housing developments to provide a range of dwelling sizes and tenures particularly focusing on the provision of larger family sized homes (three bed plus).
6. Policy LP6 of the RLP states that conversion of 'larger homes' into smaller self-contained units (C3) will be supported where specific criteria are met. The proposal does not accord with criterion 1(a) of Policy LP6 as it is located outside of a Metropolitan, District or Local Centre as defined in the RLP. The Council does not dispute that the proposal would accord with criteria 1(b), (d), (e) and (f), in respect of building size, car and cycle parking provision, internal floorspace of units and providing at least one larger family-sized home of 74 sqm (3 bed plus) on the ground floor with access to a dedicated rear garden.
7. The Council refers to the street as predominately consisting of single family dwelling houses, and that the proposed conversion to flats would be out of character with the established pattern of development. The appellant argues that some 24 properties out of 72 on Airthrie Road are converted in some form, mainly to two flats, and that this is part of the character of the area.
8. I walked the street at my visit and based on indicators such as properties with more than one entrance door or multiple street numbers, doorbells or letterboxes, the appellant's estimate of the number of converted properties appears reasonable. The Council argues that none of these properties have been granted planning permission, at least under the current development plan, but the evidence suggests most are lawful in planning terms, either by virtue of a planning permission or lawful development certificate. I accept that the majority of properties are still single dwellings, but given the number of conversions, and their spread across the street, I find that they are an established part of a mixed residential character to Airthrie Road. In this context, the proposed conversion of the dwelling to three flats would not be out of character with the surroundings.
9. There would be the loss of a four-bedroom family dwelling, which the Council argues would conflict with Policy LP5. However, read on its face, and absent any supporting text or guidance which has not been provided to me, Policy LP5 seeks to secure a range of homes, dwelling sizes and tenures, with the focus on the 'provision of larger homes'. The policy does not state that four-bedroom dwellings are specifically protected from conversion. The proposal would provide a larger home through the three-bedroom ground floor flat. As such, there would be no net loss of family-sized housing in this case.
10. The Council raises concern that three flats could accommodate up to ten occupants, giving rise to increased noise and disturbance compared to the use of the building as a single dwellinghouse. However, no specific evidence is adduced by the Council to substantiate this general concern. The appellant points out that the existing four-bedroom dwelling, if occupied by an extended family, could house eight or more occupants. Separate units with independent occupants may give rise to additional comings and goings compared to a single family dwelling, but a single dwelling occupied by a large family could itself

generate significant activity. Indeed, it is arguable that occupants of flats would be less inclined to cause noise or disturbance, given they would have unrelated neighbours immediately above and/or below, as well as to the side. The increase in occupants would also be modest, and would not be expected to alter existing levels of noise, or the frequency of comings and goings, to such an extent that it would cause material harm to the living conditions of neighbouring occupants or increase traffic in the area. No conflict would arise with criterion 1(c) of Policy LP6 in this respect.

11. Overall, I find that the proposal would accord with the detailed criteria for conversion of larger dwellings under Policy LP6, with the exception of its location. Whilst located outside of a defined centre, the appeal site is within walking distance of facilities and public transport in Goodmayes and Green Lane, and adjacent to public recreation areas. Moreover, the proposed housing mix would accord with the overall aims of Policy LP5 to secure a range of sizes of homes that will contribute to the creation of mixed, inclusive and sustainable communities. Consequently, I find the appeal site would accord with the overall housing strategy of the RLP and would be an acceptable location for additional residential development.

Character and appearance

12. The dwelling is an end-of-terrace property standing at the southern end of the street, with its side elevation facing onto Abbotsford Road. A single storey side extension extends to the back edge of the pavement and a garden wall continues along the same line to a freestanding garage at the rear of the site.
13. The principal addition would be a two storey side extension also standing at the back edge of the pavement, but extending beyond the existing rear wall to also form a rear outrigger. A single storey extension would infill to the space between the outrigger and the boundary with No 70, whilst a full width dormer window is proposed to the main rear roof slope.
14. The side addition would effectively extend the main ridge line and hipped roof further across. Though the Council refers to a requirement in its Housing Design Guide Supplementary Planning Document (SPD) (September 2019) for roof lines of extensions to be set down from the main ridge, it recognises that the proposal would align with the design of No 71 opposite, which has been similarly extended to the side. Moreover, the terraced nature of the built form means that the roof line would appear as a natural continuation of the terrace. This aside, the extension would be recessed slightly from the front elevation, providing a degree of subservience to the front elevation view.
15. The Council's main area of concern is with the rear outrigger element, which would extend some 3.5 metres beyond the rear wall. It argues that it would neither be set down or set in to achieve subservience and would be contrary to the SPD which resists side extensions deeper than the existing side elevation. It also points to the extension being deeper than that to No 71 opposite.
16. The extension would create a substantial side elevation facing onto Abbotsford Road, but this would be viewed in the context of open surroundings. There are no buildings on the opposite side of the road, and the rear garden of the appeal site would still provide a clear gap to the garage and the nearest dwelling beyond. Given this, it would not appear overly dominant in the street scene. The difference in the depth of the extensions between Nos 71 and 72 would not

be significant, and would not prevent the proposed extension corresponding within the development opposite and providing a degree of symmetry to this end of Airthrie Road.

17. The Council did not oppose the single storey rear extension, or the rear dormer window. The former would be discreetly located to the interior of the site and would have little effect on the wider character of the area. I saw several examples of similar full-width dormer windows, notably to the neighbouring property, No 70. The design of the dormer would reflect this established pattern of development and would not harm its surroundings.
18. Overall, the proposal would develop the existing building in a substantial but sympathetic manner, reflecting the surrounding built form in terms of scale, materials and design. I therefore conclude that the proposal would preserve the character and appearance of the area, in accordance with Policies LP26 and LP30 of the RLP, which together require 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 Epping Forest SAC

19. The appeal site falls within the 'Zone of Influence' for the Epping Forest Special Area of Conservation (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.
20. I have no evidence of consultation with Natural England (NE) 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.
21. The limited evidence before me indicates that the Council, on the advice of NE, 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. However, details of this scheme or the NE advice are not before me and thus I am unable to determine whether this would be satisfactory to mitigate any adverse impacts on the integrity of the SAC.
22. The appellant indicates a willingness to make the contribution. However, even if I were to consider the financial contribution appropriate, there is no mechanism before me to secure it. The Planning Practice Guidance (PPG)¹ makes it clear that no payment of money or other consideration can be positively required when granting planning permission. 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, but 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

¹ Paragraph: 005 Reference ID: 21a-005-20190723

planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed².

23. 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 in this case of a negatively-worded condition. There are no other courses of action available to me through the appeal process. Consequently, the appeal proposal would fail to provide any mitigation.
24. As there is no mechanism in place by which mitigation can be secured and controlled, 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 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.

Planning Balance

26. 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 are out-of-date.
27. 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.
28. The proposal would deliver two additional small dwellings that would add to the Borough's and London's housing stock and meet with national aims to boost the supply of housing, and attract moderate weight. There would be economic benefits from construction of the flats, though these would be temporary, and from subsequent economic activity by future residents in the local area. However, these benefits would ultimately attract limited weight given the small scale of the development.
29. Set against these benefits, I have found that the proposal would cause harm to the Epping Forest SAC, resulting in conflict with the development plan, to which

² Paragraph: 010 Reference ID: 21a-010-20190723

I afford significant weight. Though I have not found material harm in respect of the overall housing mix and location, and the character and appearance of the area, these are neutral considerations weighing neither for nor against the proposal.

30. In my judgment, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the identified conflict 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

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

K Savage

INSPECTOR