



Appeal Decision

Site visit made of 22 June 2021 by Thomas Courtney BA(Hons) MA

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal Ref: APP/W5780/W/21/3267059

1 Ewellhurst Road, Clayhall, Ilford, IG5 0PE

- 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 M. Herrick against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 0931/20, dated 20 March 2020, was refused by notice dated 29 October 2020.
 - The development proposed is the conversion of existing dwelling to two self-contained dwellings.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. Two revised plans (drawing nos. SP/IG50PE/001 Rev. A and PP/IG50PE/001 Rev. A) were submitted during the appeal process. The revised drawing No. PP/IG50PE/001 Rev. A includes the removal of an internal door between the two flats at ground floor level. I accept revised plan no. PP/IG50PE/001 Rev. A as it consists solely of a correction in the drafting of the drawing and no parties would be prejudiced by its inclusion in my decision-making.
 4. The revised site layout plan no. SP/IG50PE/001 Rev. A shows two clearly demarcated landscaped amenity spaces for the two flats. It also introduces new boundary treatments with the proposed addition of 1.8m high fencing to the front of the property as well as along the side boundary abutting Wensleydale Avenue. I note the Council have had the opportunity to comment on this revision during the course of the appeal and consider that the amendments to plan no. SP/IG50PE/001 Rev. A have materially changed the proposal and should thus be rejected.
 5. I have carefully considered the implications of the proposed revisions in the light of the principles of the judgement in *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*. The 'Wheatcroft Judgement' is essentially premised upon whether a development is so changed that to grant it would deprive those who should
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have been consulted on the changed development of the opportunity of such consultation.

6. I have also had regard to the advice set out in the '*Procedural Guide – Planning Appeals – England*'. The Procedural Guide advises that if an amendment to an application proposal would be likely to overcome a reason for refusal, then this should normally be made by a fresh application. The appeal process should not be used to evolve a scheme and what is considered at the appeal should essentially be what was considered at the application stage.
7. In this instance, I find that the introduction of new 1.8m high fencing to the front of the property (for which planning permission would be required) does indeed materially alter the proposal and cannot be regarded as a minor amendment to the scheme, due to its effect on the character and appearance of the host dwelling and streetscene. The proposed revision clearly seeks to address the issues of dispute upon which the Council based its decision at the application stage, and specifically the Council's view that the front amenity space serving Flat 1 would neither be private nor usable. The scheme would therefore differ from that which neighbouring residents understood as the proposal and if allowed, the effect of the revision would be that the appeal process would have been used as a means to amend the scheme so as to overcome a reason for refusal.
8. On this basis, I am satisfied that it would be prejudicial to the Council and neighbouring residents to include amended plan no. SP/IG50PE/001 Rev. A in my decision-making, and it is therefore my conclusion that the proposed revisions shown on drawing no. SP/IG50PE/001 Rev. A should not be accepted. This plan has not therefore formed any part of my assessment of the appeal scheme.
9. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (NPPF). Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the NPPF. I am therefore satisfied that there is no requirement to seek further submissions on the revised NPPF, and that no party would be disadvantaged by such a course of action.

Main Issues

10. The main issues are:

- The effect of the sub-division on the Borough's stock of larger homes suitable for family occupation;
- whether the proposal would provide satisfactory living conditions for the future occupiers of the host dwelling, with regards to the provision of private amenity space;
- the effect of the sub-division on the living conditions of neighbouring occupiers with regards to noise, general disturbance, and traffic; and,
- the effect of the conversion on the Epping Forest Special Area of Conservation (SAC).

Reasons for the Recommendation

Loss of family housing

11. The appeal property comprises a detached bungalow with a single-storey rear extension and loft conversion dormer situated on a corner plot at the junction of Ewellhurst Road and Wensleydale Avenue. It appears to be currently functioning as a disability care home although I have no evidence of planning permission for its change of use. It lies within an established residential area typified by detached bungalows and semi-detached two-storey housing.
12. Policy LP6 of Redbridge Borough Council's Local Plan 2015-2030 (the 'local plan') aims to restrict the loss of existing larger homes with three bedrooms or more, suitable for family accommodation. In order to mitigate the erosion of the borough's housing stock of 'family sized' housing, proposals for the conversion of larger homes into smaller self-contained units would need to comply with the list of requirements set out in Policy LP6.
13. As the proposed sub-division would result in the creation of one 3-bedroom unit and one 4-bedroom unit, I concur with the appellant in that there would be no loss of a larger home suitable for family accommodation defined by the Council as a 3-bedroom plus dwelling. In fact, quite the opposite would occur with an additional unit of an appropriate size for family accommodation being created. The proposed flats would also be appropriately sized, would provide appropriate car and cycle parking, would not lead to a significant loss of character or amenity as a result of increased traffic, noise or general disturbance, and would provide at least one family-sized home on the ground floor with access to a dedicated rear garden.
14. Although the Council state that the proposal would undermine Policy LP5 of the local plan which seeks to prioritise larger family homes, I find that the proposed sub-division would not conflict with this aim as it would result in the creation of two larger (3-bed plus) homes.
15. Notwithstanding this, as the appeal site is not located within a Metropolitan, District or Local Centre, the proposal would not comply with criterion (a) of Policy LP6.
16. Given the above, the proposal would be consistent with Policy LP5 of the local plan which seeks to ensure proposals provide a range of dwelling sizes particularly focussing on the provision of larger family-sized homes. However, it would conflict with criterion (a) of Policy LP6 of the local plan which seeks to ensure that proposals for the conversion of larger homes into smaller self-contained units are only supported in Metropolitan, District or Local Centres.

Living conditions of future occupiers

17. The proposed outdoor amenity space for Flat 1 would be located to the front of the property and would abut the junction of Ewellhurst Road and Wensleydale Avenue. Although the appellant contends that the surrounding area is quiet and friendly and that it is not unusual to see front gardens being used as traditional amenity spaces in suburban areas, I find that the front of the property would not be a satisfactory location for a main amenity area for a family-sized unit.
18. Whilst it would be appropriately sized, the designated garden for Flat 1 would be adjacent to the road junction and directly abutting the pavement. Due to its

position, and low boundary treatments, it would not provide adequate privacy for its users and hence its usability would be limited. It would fail to provide sufficient privacy from passers-by and would not constitute a pleasant space due to the proximity of passing vehicles. The future occupants' ability to carry out a range of reasonable private outdoor activities would be hindered and disturbed given the proposed location of the amenity space.

19. The proposed garden would also not be compatible with the prevailing pattern in the surrounding area, as required by Policy LP29 of the local plan. Indeed, Ewellhurst Road is characterised by front of property parking with main outdoor amenity spaces to the rear. The front garden would therefore jar with the surrounding context.
20. Given the above, the development would fail to provide acceptable living conditions for future occupants of Flat 1 with regards to the provision of adequate private amenity space. Therefore, the proposal would conflict with Policy LP29 of the local plan which seeks to ensure proposals provide adequate private and usable amenity space.

Living conditions of neighbouring occupiers

21. The creation of two self-contained units could conceivably result in a higher level of occupancy when compared with that of a single-family dwelling. However, this would be marginal as the existing large dwelling is comprised of 7 bedrooms which would be the same total number of bedrooms following the proposed sub-division of the property. The sub-division therefore does not necessarily mean there would be an increase in activity, noise and general disturbance, and indeed I have no evidence before me to suggest that would be the case. As such, I do not find that the proposal would unreasonably and materially impact on the living conditions of the occupants of neighbouring properties with regards to noise and general disturbance.
22. Furthermore, I do not regard that the proposed sub-division of the property would unreasonably increase parking pressures on Ewellhurst Road and surrounding streets. I do not find that the proposal would generate an excessive amount of vehicular movements, or that these would unreasonably or materially impact on the living conditions of neighbouring occupiers, with any perceived disturbance likely to be minimal and momentary in nature.
23. I also have no compelling evidence before me to suggest that traffic generated as a result of the sub-division would be materially greater than that created by the occupation of the building as a single-family house. The site is in an urban location with a bus stop in close proximity and therefore not all occupants would necessarily need to own a car.
24. Therefore, I do not consider the development would result in a significant and detrimental intensification of the site and harmfully affect the living conditions of neighbouring occupiers. As such, it would not conflict with the parts of Policy LP6 of the local plan which seek to ensure conversions from a large family dwelling to smaller units do not negatively impact on the living conditions of the occupiers of neighbouring properties with regards to increased traffic, noise and general disturbance. It would also not conflict with Policy LP26 of the local plan in so far as it would not adversely impact upon the amenity of neighbouring occupiers.

Impact on Epping Forest SAC

25. The appeal site is located within 6.2km of the Epping Forrest SAC. In accordance with the *Conservation of Habitats and Species Regulations 2017* (as amended) and local plan Policy LP39 referred to by the parties and transcribed within the appellant's grounds of appeal statement, residential developments which fall within the 0-6.2km zone of the SAC will need to provide a financial contribution to strategic 'off-site' measures. The Council state this was confirmed by Natural England and attached a 'Mitigation Payment letter' to their appeal statement.
26. I am satisfied that the mitigation is required and that an appropriate mechanism could be employed to secure the contribution. However, it is not possible to secure a financial contribution by virtue of the use of a planning condition, except in exceptional circumstances. There is no evidence before me that such a situation arises as a consequence of this case, and an appropriate planning obligation has not been entered into in the context of this appeal.
27. The absence of an agreed mechanism to secure the contribution means that the impact of the development has not been addressed, and the required mitigation has not been provided. Therefore, the impact of the proposal on the Epping Forest SAC has not been mitigated, and it would therefore conflict with Policy LP29 of the local plan which seeks to ensure that the borough's natural environment is protected and enhanced and that the quality and quantity of biodiversity is increased.
28. Although quoted in the Council's decision notice, I do not find that Policy LP33 is directly relevant to the proposal as it relates more specifically to the preservation of heritage assets, historical parks and gardens, and archaeology. Similarly, Policy LP38 seeks to ensure the protection of existing trees and other landscape features and supports new development which integrates trees. It is therefore not directly relevant to this issue.

Planning Balance and Conclusion

29. Paragraph 11 d) of the NPPF requires decision makers to apply a presumption in favour of sustainable development where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
30. Notwithstanding the absence of a five-year supply of deliverable housing I find that Policies LP6 and LP29 of the local plan are relevant to this appeal, and are broadly consistent with the NPPF. As a result of the sub-division of the existing dwelling, the proposal would create one additional family-sized dwelling in the borough. The scheme would make a contribution, albeit small, to the supply of housing in the area, at a time when the Council is unable to demonstrate a five-year supply of deliverable housing sites. Although I have noted the appellant's contention that the proposal would be affordable in nature, there is no means proposed of securing occupation on this basis in practice, and I have not therefore attached any significant weight to this point. However, allowing for the limited additional quantum of development, there must still be moderate weight attached in support of the proposed development.

31. Nevertheless, for the reasons set out above, I find that the proposal would not accord with the Council's policy on the management of the Borough's stock of larger homes and harm would be caused to the living conditions of the future occupants. Furthermore, there is no mechanism in place to secure the required mitigation for the SAC. As a result of this cumulative harm, the appeal proposal would be in conflict with the development plan, and the NPPF.
32. Whilst I have not found there to be harm to the living conditions of neighbouring occupiers, I find that the adverse impacts of granting permission for the proposal would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the NPPF taken as a whole. There are no material considerations which lead me to determine the appeal otherwise than in accordance with the development plan. Accordingly, the proposal would not comprise sustainable development.

Recommendation

33. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

34. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Martin Seaton

INSPECTOR