

Appeal Decision

Site visit made on 23 November 2021

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2021

Appeal Ref: APP/J1535/W/20/3265840
5 Hampton Mead, Loughton IG10 1TX

- 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 Victor Khatri against the decision of Epping Forest District Council.
 - The application Ref EPF/0669/20, dated 24 March 2020, was refused by notice dated 29 June 2020.
 - The development proposed is new two bedroom dwelling to 5A Hampton Mead.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) has been updated since the parties' appeal submissions were made. They were given the opportunity to comment on any consequences of the revised version for the appeal, but neither responded. I have referred to paragraph numbers from the updated version.
3. The Council has indicated that it no longer wishes to pursue reason for refusal 3 relating to the proposed parking arrangements. I have framed the main issues accordingly, but recognise local concerns on this matter under the heading of 'Other Matters'.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook;
 - whether the proposal would be likely to have a significant adverse effect, alone or in combination, on the Epping Forest Special Area for Conservation or, if necessary, provide satisfactory mitigation.

Reasons

Character and appearance

5. The appeal property is a two storey, semi-detached dwelling positioned at the end of the Hampton Mead cul de sac. The adjoining property at No 4 is
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positioned at right angles to it. This arrangement is characteristic of the uniform pattern of development in the area such that, although the properties are fairly closely spaced, each has a frontage onto the road. As a consequence of this arrangement, corner plots tend to have larger gardens and this is true of the appeal property. Nevertheless, both Nos 4 and 5 have previously been extended to the side which has taken up some of that space.

6. The appeal site comprises part of the garden to the side and rear of No 5. As such, the proposed dwelling would be located to the rear of No 5. While it would broadly follow the building line of No 4, its siting would depart from the uniform pattern of development in that it would have no direct frontage onto the road and would take up much of the larger, corner plot, space. Notwithstanding that the dwelling would be 1½ storeys in height, by virtue of its siting and footprint, it would appear cramped in its surroundings and would be at odds with the locally distinct uniform pattern of development. I did not see, and have not been made aware of, other similar developments in the area.
7. Consequently, the proposal would have a harmful impact on the character and appearance of the area. It would, therefore, conflict with Policies CP2 and DBE2 of the Epping Forest Local Plan Alterations 2006 which require development to safeguard and enhance the setting, character and townscape of the urban environment. Nor would it accord with Framework paragraph 130 or Policy DM9 of the Epping Forest District Local Plan Submission Version 2017 (LPSV) which have similar aims. The first reason for refusal also refers to LP Policies DBE4, which deals with new buildings in the Green Belt, and DBE9, which seeks to protect the living conditions of neighbouring properties, and LPSV Policy DM10 which deals with housing design and extensions and alterations to residential buildings. None are directly relevant to my consideration of this issue.

Living conditions

8. The blank gable wall of the proposed dwelling would be sited some 1m off the common boundary with 37 and 39 Newmans Lane and its front elevation would be just over 1.5m from the boundary with the retained garden of No 5. None of the gardens of these properties are particularly large. Therefore, even allowing for the 1½ storey height of the proposed dwelling, I consider that it would be an unduly imposing presence on the garden areas and the views from the rear windows of these properties. As such, it would be detrimental to the living conditions of their occupiers and conflict with LP Policy DBE9 and LPSV Policy DM9. These policies seek to protect the living conditions of neighbouring occupiers, including their outlook.
9. The appellant has explained how the proposal would avoid overlooking neighbouring occupiers. I see no reason to disagree on this point, but it is distinct from the effect on outlook.

Special Area for Conservation

10. The Council has prepared an Appropriate Assessment for the Epping Forest Special Area for Conservation (SAC). It finds that, in the vicinity of the appeal site, additional residential development resulting in an increase in traffic movements would be likely, on its own or in combination with other development, to lead to impacts on the SAC in terms of recreational pressures and air quality.

11. The Council's Interim Air Pollution Mitigation Strategy (IAPMS) has been adopted since the application was determined. The appellant responded to the IAPMS in its final comments. The IAPMS provides a strategic approach to mitigating recreational and air quality impacts on the SAC by imposing planning conditions and securing financial contributions. Policies DM2 and DM22 of the LPSV require mitigation measures where new development adversely affects the air quality of receptors including the SAC.
12. The appellant does not dispute these matters, but has indicated a willingness to enter into a planning obligation and also suggested that the development could be 'car-free' in order to avoid impacts on the SAC. The Planning Inspectorate's Procedural Guide¹ for appeals is clear that planning obligations should be submitted with written representations appeals. No planning obligation has been submitted with the appeal and conditions should not be used to secure financial contributions or planning obligations². As such, I am unable to take into account the offer of a planning obligation.
13. The appellant's evidence on parking matters has demonstrated that there is sufficient capacity on nearby roads to accommodate off-street parking for the proposed dwelling. This matter is no longer disputed by the Council and I see no reason to disagree. No mechanism for securing car-free occupation of the proposed dwelling has been suggested.
14. The appellant has also referred to the accessibility of the appeal site to bus routes, local services and recreational areas. I recognise that the site is reasonably well located for bus routes on Newmans Lane and Rectory Lane. However, the nearest local services are considerably further away and limited in extent. There are informal recreational areas reasonably close to the site along Rectory Lane. While suitable for dog-walking and local children's play, they are not quantitatively or qualitatively comparable with the recreational attraction offered by Epping Forest. Overall therefore, I consider that the site is not so well located that future occupiers would be unlikely to make use of a private car for day to day trips or for recreation at Epping Forest.
15. Consequently, the proposal would be likely to have an adverse effect on the integrity of the SAC by reason of recreational pressure and air quality impact from vehicle movements. As such, it would conflict with Policy CP1 of the LP which seeks to minimise the effect of development on the environment and Framework paragraph 180 which has similar aims. Nor would it accord with LPSV Policies DM2 or DM22 which, among other things, require new housing in Loughton to make a financial contribution to the management of visitors to the SAC. The third reason for refusal also refers to LP Policy CP6. However, this is concerned with the pattern of urban development and is of limited relevance to my consideration of this issue.

Other Matters

16. The appellant has expressed concern regarding the Council's handling of the application. However, my decision is based solely on the planning merits of the proposal.

¹ Planning Inspectorate Procedural Guide March 2021, Annexe N

² Planning Practice Guidance Paragraph reference IDs: 21a-005-20190723 and 21a-010-20190723

17. I have had regard to the other concerns expressed locally, including that the proposal would exacerbate parking problems in the area, but they have not led me to a different overall conclusion.

Planning Balance and Conclusion

18. The proposal would provide one additional housing unit and the Framework seeks to significantly boost the supply of new homes. Policies CP1 and CP6 of the LP also support residential development in urban areas. The Council accepts that it cannot demonstrate a five-year supply of housing land, although the extent of the shortfall is unclear. Nevertheless, the appeal proposal would make a very modest contribution to the housing needs of the District as a whole.
19. Framework paragraph 11d(i) advises that, where the policies for determining an appeal are out of date, planning permission should be granted unless Framework policies that protect areas of particular importance provide a clear reason for refusing the development. Such policies include habitats sites³ and I have found that the proposal would not accord with development plan or Framework policies on this matter. Consequently, the presumption in favour of sustainable development does not apply in this case.
20. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. While there is development plan policy support for residential development in locations such as the appeal site, the benefit of the proposal is minor as it would make a very modest contribution to the supply of housing.
21. On the other hand, the proposal conflicts with development plan policies to protect an internationally significant habitat site and to safeguard the character and appearance of the area and the living conditions of neighbouring occupiers. Consequently, it conflicts with the development plan as a whole. Nor does the proposal benefit from the 'tilted balance' in Framework paragraph 11d. Therefore, material considerations do not indicate that the appeal should be determined other than in accordance with the development plan.
22. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR

³ Framework footnote 7