



Appeal Decision

Site visit made on 10 December 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/J1535/W/21/3274841

Warren House, High Road, Epping CM16 5BB

- 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 G Lawrence against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0146/21, dated 15 January 2021, was refused by notice dated 24 March 2021.
 - The development proposed is the re-siting of a previously approved dwelling adjacent Warren House.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the Council in their refusal reasons reference the 2019 version of the National Planning Policy Framework (the Framework). Since the submission of the appeal, the 2019 version of the Framework has been superseded by the 2021 version. I have considered the appeal on this basis and refer only to the updated 2021 Framework within my decision.
3. I also note references in the Decision Notice to Policies DM1, DM2, DM3 and DM7 from the emerging Epping Forest Local Plan 2017 (Submission Version) (LPSV). In my application of paragraph 48 of the Framework, whilst the LPSV is not part of the adopted development plan, it is at an advanced stage in the adoption process, and according to the Council's proposed Main Modifications there have been no modifications to the policies or the accompanying text. In my opinion the emerging policies would appear to be consistent with the Framework. I am also mindful that the examining Inspector may wish to re-open the examination to hear further evidence and as such could result in further changes and additions to these policies and accompanying text. Based upon this, I will afford the LPSV moderate weight in this appeal decision and is a material consideration to this decision.

Main Issues

4. The main issues are:
 - The effect of the proposal upon the landscape and setting of the Epping Forest; and
 - Whether the proposal preserves or enhances the character and/or appearance of the Copped Hall Conservation Area (CA), including the setting of the Ambresbury Banks Slight Univallate Hillfort.

Reasons

Legal and Policy Context

5. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) prescribes a duty upon a decision maker to give special attention to the desirability of preserving or enhancing the character or appearance of a CA, in the determination of a planning application.
6. In terms of the adopted Development Plan, this consists of the saved policies of the Epping Forest District Local Plan (LP). Saved LP Policies LL10 and LL11 seek that development makes adequate provision for the retention of trees, natural features, wildlife habitats and that there is adequate landscaping. Saved LP Policy NC1 seeks that consideration is given to the preservation of designated areas that are important for nature conservation purposes. As the appeal site is considered to be within the setting of the Ambresbury Banks Slight Univallate Hillfort Scheduled Monument (SM), Saved LP Policy HC1 seeks that consideration is given to the significance of a SM, including its setting; whereas saved LP Policies HC6 and HC7 are associated with the consideration of the impact of development upon the significance of the CA and/or its setting.
7. According to paragraph 199 of the Framework, great weight should be given to a heritage asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance. Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to 'less than substantial harm,' the harm should be weighed against the public benefits of the proposal.

Site Description

8. The appeal site is located along Warren House Road which is a main road leading to Epping Town, approximately a mile away. The site is located in a relatively isolated location in terms of having no neighbouring development surrounding and is a small clearing that is surrounded on all property boundaries by the Epping Forest. The Epping Forest contains a vast area of mature vegetation and components of this area have nature conservation designations such as being a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC).
9. The appeal site currently contains a two storey dwelling (referred hereon as Warren House) which is located towards the east of the site and was constructed relatively recently. A vehicular accessway towards the west of the site leads from the southern boundary through the site to a dwelling located further to the north of the appeal site. To the east of the accessway between the driveway and Warren House is a formal laid out lawn. Along the southern boundary is a close boarded timber fence and an entrance along High Road with large brick piers and a timber gate leading to the accessway.

Planning Background

10. According to the appeal documents, the site once contained a dwelling and outbuildings behind; which was located towards the west of the site and main accessway. The dwelling was destroyed by fire. Subsequent to this, planning

permission¹ was granted for the erection of a replacement dwelling and later a further planning permission² granted the demolition of the remaining dwelling and ancillary buildings for the erection of two dwellings (which included the replacement dwelling approved). According to the Planning Officers report, Warren House was erected approximately 20 metres east of the approved location. This then resulted in a further planning permission³ to regularise the new position of Warren House and which in turn approved a smaller dwelling (hereon referred to as Warren Lodge) further east of the current accessway closer to Warren House.

11. On my site visit, Warren House had already been constructed, however the construction of Warren Lodge had not yet commenced. Despite this, as a result of the commencement of Warren House, extant planning consent exists for the construction of Warren Lodge and this consent could be enacted despite the outcome of this determination.

Landscape and setting of Epping Forest

12. The setting of the appeal site is one that is dominated by the Epping Forest with large trees and mature vegetation surrounding the site and located along the property boundaries. The current timber fence, large brick piers and the presence of Warren House do present as an anomaly to the greater landscape setting which consists of forest trees, and the lack of formal boundary walls and fencing to the road edge. Warren House is positioned to the east of the site and whilst it does have some screening from the trees along the road edge, the clearing, existing built form and residential paraphernalia such as gates, fences etc does present a distraction to the experience of this predominantly forest environment.
13. The documents submitted with the planning application and with the appeal do not contain amendments or discussion as to whether the re-location of the proposed Warren Lodge would result in changes to the amount of landscaping, tree planting or environmental improvements as a result of its relocation.
14. Whilst I agree with the applicant that despite where Warren Lodge was located within the site, it would still be within the clearing and not physically encroach upon the forest; there will be areas within the site which will be less harmful than others. The previously approved site had more containment between the built form where Warren Lodge and Warren House were located closer together and which would be experienced and appreciated in the same context. I appreciate that there are no alterations to the form and scale of Warren Lodge under this relocation proposal, however the increased distance would visually elongate the extent of built form within this area of clearing. Given the positioning of Warren House, the proposed re-location of Warren Lodge to the west of the driveway closer to the edge of Epping Forest would be more harmful to the landscape setting of Epping Forest than as currently permitted.
15. I acknowledge comments that there has historically been a dwelling in the location of the proposed relocation site, and that a replacement dwelling was permitted on this site for the dwelling which was subject to fire. It would appear that considerations regarding the replacement dwelling permitted

¹ Epping Forest Planning Ref: EPF/2552/14

² Epping Forest Planning Ref: EPF/2723/15

³ Epping Forest Planning Ref: EPF/1127/16

related more to the principle that it was a replacement dwelling, and considerations were made with the replacement dwelling with the ancillary buildings behind which formed a concise development that extended further into the site. This situation is not analogous to the current proposal which has a large dwelling constructed to the east of the site and where now there is the need for a new assessment of how best to place the smaller Warren Lodge to reduce the amount of harm to the landscape setting.

16. There is also commentary pertaining to the relocation of the proposed accessway which runs from the southern to northern boundary to the west of the site. Under the approved scheme it was proposed that the accessway instead of running straight would divert further west where it would continue to the north. In this current proposal under consideration, the applicant states that if the proposed dwelling was constructed to the west of the accessway, there would be no need to divert the accessway to the west. This in the applicant's opinion would provide positive benefits to the landscape setting as there would be less hardstanding. It is not made clear in the appeal documents why the accessway running from the southern to northern boundary is required to be diverted to facilitate the construction of the proposed Warren Lodge; which could equally be constructed without the relocation of this accessway. As such, based on the evidence before me, the relocation of the accessway does not weigh in favour of the proposed scheme in terms of its impact upon the landscape.
17. Further discussion in the applicant's SoC refers to the position of Warren Lodge in relation to Warren House in that the proposed relocation of the Warren Lodge would facilitate a supervisory role to the access which would present more similarly to that of a gatehouse to a larger house. Whilst there is some merit in having a hierarchy of buildings which appears to have been a design consideration into the different scales between Warren lodge and Warren House, this supervisory role as suggested could equally be achieved in the approved location as permitted.
18. Taking the above into account, the proposal would fail to respond to the landscape setting of the Epping Forest and subsequently the relocation of the dwelling would increase the harm above that of the previous approval to a detrimental effect. The scheme would therefore be contrary to Saved LP Policies LL10 and LL11 as described previously. I have also afforded moderate weight to emerging LPSV Policies DM2 (which seeks to conserve and enhance landscape setting) and DM3 (which seeks that development be sensitive in their setting in the landscape, taking into account local distinctiveness and characteristics).
19. The Decision Notice reasons for refusal reference Saved LP Policy NC1 and Emerging LPSV Policy DM1 which are related to an assessment of impacts towards biodiversity. The reason for refusal relates to landscape setting and does not specifically mention impacts towards biodiversity. As such, these policies are not related to this matter (however biodiversity is further discussed in the 'Other Matters' Section at the end of this letter).

Heritage Significance

20. The appeal site lies within the CA which is located in Sub-Area 1. The CA Appraisal describes the strong presence of the forest as an element that contributes positively to the character of the area and reflects it's special

interest. On my site visit this experience was evident walking through the forest nearby the site as well as via vehicle where the amount of overgrown vegetation, forest trees and undeveloped nature with the lack of street lighting and informal pavements created a feeling of remoteness and isolation. Along tracks within the forest there were also experiences of tranquillity, which reinforced the positive local character, appearance and distinctiveness of the forest area. However, some of these experiences are somewhat disturbed by the fast moving traffic along roads such as the High Road in front of the appeal site and built form and the clearing which disrupt the overriding characteristics of the CA.

21. The appeal site also lies directly opposite a hillfort that is designated as a Scheduled Monument. The SM is large and roughly circular and around its edges contains a ditch and ramparts. The significance of the SM comes from its preserved features, its layout and below archaeological remains which can provide information as to the development and evolution of ancient civilisations. The significance of the SM is not only from what can be physically seen or gained from physically experiencing the monument, and extends to intangible aspects such as the collective memory of the SM's location in relation to the surrounding forest and its feelings of tranquillity and remoteness and lack of built form. These positive aspects to the significance of the SM are somewhat disrupted by the High Road and built form on the appeal site which disrupt these positive attributes of the SM and its setting.

Conservation Area and Scheduled Monument Considerations

22. As described above, the relationship and overriding character and appearance of the forest is a positive quality which contributes both to the setting of the SM as well as to the significance of the CA. The later building as present upon the appeal site does cause a distraction and an anomaly to the experience and significance of the CA and SM and its historic legibility, setting and tangible and intangible relationships.
23. That said, in my opinion the proposal to relocate Warren Lodge which would enable a greater elongation of built form along the appeal site would increase the harm caused from the previously granted scheme. I acknowledge comments that there is vegetation along boundaries which provides some screening, and that the proposed scheme would not physically affect the SM, however an assessment of significance to the CA or SM goes beyond what can physically be affected or seen and relates to both tangible and intangible elements as discussed previously.
24. I therefore disagree with the Appellant's Statement that 'no harm' would be caused. It is clear to me that the proposal would fail to preserve the character and appearance of the wider CA, and would be harmful to the significance of the SM from development within its setting. Although serious, the harm to the heritage assets in this case would be 'less than substantial,' within the meaning of the term in paragraph 202 of the Framework as described previously. I turn to this assessment of public benefits now, below.

Public Benefits

The applicant has expressed in their Statement of Case (SoC) that public benefits would include improvements to biodiversity from not requiring to dig up existing landscaping; reducing the need for raw materials to construct an

access track; and a better historical interpretation between Warren House and Lodge.

25. As discussed previously, it is unclear of the need to relocate the accessway and as there has been no ecological assessment submitted, and whilst there would be less of a need for raw materials, there is no evidence to support that the relocation of the accessway would be ecologically more/ less detrimental as a result or whether there is an inherent requirement to relocate the accessway.
26. Given that historically there never was a gatehouse and country house arrangement in this location, the proposal for such an arrangement has no historic basis, would be largely inauthentic and would be against conservation philosophy which seeks to resist imitations or 'fake heritage.' I do not find the invention of a 'historic arrangement' would be a public benefit that would be a positive aspect for the CA or the setting of the SM in this particular location.
27. Taking the above into account, and in conclusion of this matter, the proposal would fail to preserve the character and appearance of the CA and would cause harm to the significance of the SM from development within its setting. The public benefits put forward by the applicant would not clearly outweigh the less than substantial harm caused to the heritage assets to which I attach great weight to in accordance with the Framework. As such, the proposal would not be in accordance with LP Saved Policies HC1, HC6 and HC7 as described previously. I have also afforded moderate weight to emerging LPSV Policy DM7 which seeks to conserve and enhance the character, appearance and function of heritage assets in a manner appropriate to their significance.

Other Matters

28. The appeal site is located within land designated as Green Belt. The Council have viewed the scheme as not inappropriate development in the green belt, and I have no reason to disagree with this assessment.
29. There is commentary within the Applicant's SoC with regards to considerations around the proposed development and biodiversity. The issue of impact towards biodiversity is not specifically discussed in the reasons for refusal, however I do note that there is some discussion in the Planning Officer Report which inserts comments from the Council's Tree and Landscape Officer who has concerns with regards to the proximity and effect of the proposed dwelling to Epping Forest, the SAC and SSSI. Given that the proposed scheme has shown to be in conflict with matters such as the landscape setting and the historic environment, I have not needed to delve into any additional matters beyond the Decision Notice, such as an assessment of any evidence pertaining to potential impacts to the Epping Forest, SAC or SSSI.

Conclusion

30. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be dismissed.

J Somers
INSPECTOR