



Appeal Decision

Site visit made on 28 September 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal Ref: APP/J1535/W/22/3292175

47 Sunnyside Road, Epping CM16 4JW

- 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 Mrs Wendy McDaid against the decision of Epping Forest District Council.
 - The application Ref EPF/2332/19, dated 26 September 2019, was refused by notice dated 12 November 2021.
 - The development proposed is described as 'erection of two bedroom dwelling to form end-terrace, following demolition of an existing garage'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's reasons for refusal refer to Policies DM2, DM9 and DM22 of the Epping Forest Local Plan (Submission Version) 2017 (LPSV). The LPSV has not yet been adopted by the Council as part of its development plan. However, the LPSV has been through the examination process and has reached an advanced stage. I am not aware of any unresolved objections to these policies so far as they relate to this appeal. Therefore, I have attached significant weight to these emerging policies but not the full weight of an adopted Local Plan.

Main Issues

3. The main issues are:
 - (i) the effect of the proposal on the character and appearance of the area; and
 - (ii) the effect of the proposal on the Epping Forest Special Area of Conservation (SAC)

Reasons

Character and appearance

4. Sunnyside Road is a residential street, predominantly characterised by two-storey dwellings. There are a mix of detached, semi-detached and terraced dwellings on the street. Architectural styles and facing materials vary, however buildings mainly comprise of traditional architecture. There is also general cohesion within the design of individual dwellings or groups of attached dwellings. For example, to one side of the appeal site, there is an overriding consistency across the front elevation of the terraced row at Nos 31 - 45

Sunnyside Road. The semi-detached dwellings at Nos 47 and 49 Sunnyside Road also form a cohesive pair. The symmetry to their front elevations, including their proportions and opposing hipped roofline, positively contributes to the order and quality of the street scene.

5. The front elevation of the dwelling, in terms of its respective width, the layout of its window and door fenestration and its lower roof line, would significantly contrast with the respective elements of the dwellings at Nos 47 and 49. Consequently, the resultant group of attached dwellings would not read as a cohesive terraced row. Instead, the development would have the overriding appearance of a bulky extension to No 47. As a result, the development would not have an appearance appropriate to its function as an independent dwelling and it would also unbalance the symmetry of the existing semi-detached pair. For these reasons, the proposal would be an incongruous addition which would detract from the order and quality of the street scene.
6. My attention has been drawn to the recent development at No 12a Sunnyside Road¹. However, that particular site is occupied by a detached dwelling and in that regard is not comparable to the appeal proposal.
7. I conclude, the proposal would result in significant harm to the character and appearance of the area. In that regard, it would conflict with the design and character requirements in Policies CP7 (Urban Form and Quality) and DBE1 of the Epping Forest Local Plan (1998) and Alterations (2006) (LP). For the same reasons, the proposal would also conflict with the design requirements of Policy DM9 (High Quality Design) of the LPSV and the National Planning Policy Framework (the Framework).
8. The Council's decision also refers to Policy DBE3 of the LP. This policy primarily relates to spaces in and around buildings. While I have not identified specific conflict with this policy, this does not override the harm and conflict with the other identified policies of the development and the Framework.

Epping Forest SAC

9. The evidence before me indicates that the site is located within the zone of influence for the Epping Forest SAC which is a European designated site. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal. However, I have not been provided with enough information on the SAC to determine any likely effects of the development upon it and so cannot fulfil my statutory duty under the Habitats Regulations.
10. Notwithstanding the above, the Council's delegated report raises concern that the development would be likely to result in an increase in traffic in close proximity to the SAC, which on its own or in combination with other plans or projects, could lead to impacts on the SAC in terms of both air quality and recreational pressure. This has not been disputed by the appellant.
11. The Council has indicated that it has adopted an 'Interim Approach to Managing Recreational Pressures' on the SAC and that this includes a requirement for a contribution of £352 per dwelling to mitigate the impacts arising from

¹ LPA Ref EPF/1040/16

recreational pressures on the SAC. The requirement for a financial contribution to be made in respect of new homes in Epping is also confirmed in Policy DM2 (Epping Forest SAC and Lee Valley SPA) of the LPSV. The appellant has confirmed they would be willing to make such a payment.

12. However, a monetary contribution could not be appropriately secured by condition. There is no formal agreement between the main parties nor has an undertaking through a planning obligation been provided as part of the appeal submissions. Therefore, even if I were in a position to undertake an appropriate assessment and this were to confirm that any likely significant adverse effects on the integrity of the SAC could be addressed through the suggested mitigation payment, there is no certainty that such a contribution would be made and I would have no means by which to secure it.
13. I conclude, I cannot be certain that the proposal would not have a likely significant adverse effect on the integrity of the Epping Forest SAC and in the event that it would that any necessary mitigation could be secured. In the circumstances, there is the potential that the proposal would conflict with the sustainable development aims and the requirements to protect SACs, minimise impacts upon the environment and to provide compensatory measures to offset such impacts in Policies NC1, CP1 (Achieving Sustainable Development Objectives) and CP6 (Achieving Sustainable Development Patterns) of the LP. In that event, the proposal would also conflict with the nature conservation requirements of Policies DM2 (Epping Forest SAC and Lee Valley SPA) and DM22 (Air Quality) of the LPSV, the Framework and the Habitats Regulations.

Other Matters

14. The appellant's concerns in respect of the Council's handling of the planning application are not material to my assessment of the planning merits of the proposal. Whether or not the proposal is acceptable in respect of other material planning matters is of neutral consequence and does not override the harm identified under the main issues.

Conclusion

15. The appellant contends that the Council cannot demonstrate a five year housing land supply. This has not been disputed by the Council. In the circumstances, paragraph 11d of the Framework and the presumption in favour of sustainable development is engaged. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
16. In the context of the Government's objective to significantly boost the delivery of housing, a two-bedroomed dwelling would make a modest but important contribution towards the provision and mix of housing in the area. I also attach positive weight to the potential for some modest social and economic benefits through the construction of the dwelling and its future occupation.
17. However, the proposal would result in significant harm to the character and appearance of the area. In this regard the proposal conflicts with the policies of the Framework as a whole and the adverse impact of the development would significantly and demonstrably outweigh the modest benefits identified.

18. In addition, insufficient information has been provided to determine the effect of the proposal on the Epping Forest SAC and in the event that there would be any likely significant effects on the integrity of the SAC, that appropriate mitigation could be secured. This is a matter which further weighs against the proposal.

19. Therefore, the appeal is dismissed.

M Russell

INSPECTOR