



Appeal Decision

Site visit made on 28 November 2022

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2022

Appeal Ref: APP/J1535/W/22/3292682

7 Brooklyn Avenue, Loughton IG10 1BL

- 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 and Mrs Nooitgedacht against the decision of Epping Forest District Council.
- The application Ref EPF/1306/21, dated 6 May 2021, was refused by notice dated 6 October 2021.
- The development proposed is a detached 3 bedroom dwelling in an existing side garden.

Decision

1. The appeal is dismissed.

Preliminary Matters

1. The Council's officer report listed a number of documents in relation to the Epping Forest Special Area of Conservation (SAC), which were not included in the Council's evidence. Consequently, I contacted the Council and asked them to provide copies, or updated copies, of these documents; to provide information about the designation of the Epping Forest SAC; and, to provide any views on these from Natural England.
2. Copies of various documents were provided, together with information regarding current mitigation measures for developments where adverse effects on the integrity of the SAC cannot be excluded. This was copied to the appellant for their information.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - Parking provision and highway safety; and,
 - The Epping Forest SAC.

Reasons

Character and appearance

4. The appeal site is located at the intersection of Brooklyn Avenue and Priory Road within a suburban residential area, very close to the centre of Loughton. There are a range of dwelling types and sizes in this area, although predominantly traditional, 2-storey, gable fronted semi-detached houses and single storey bungalows, with front and rear gardens. Many of the front gardens include driveways for off-street car parking.

5. The appeal site is located in the garden of 7 Brooklyn Avenue, an extended semi-detached dwelling that faces towards Priory Road, but which is accessed from Brooklyn Avenue; the other semi-detached dwelling (2A Priory Road) faces onto and is accessed from Priory Road in a conventional manner, with its rear garden extending to Brooklyn Avenue. The garden of 7 Brooklyn Avenue is largely to the side of the building and is enclosed by timber-panel fencing which extends around the property, above which a number of trees and bushes are visible.
6. This is an unusual arrangement, with two joined, semi-detached homes functionally facing in opposite directions. Whilst the pair are by no means identical, there is some symmetry to the buildings, with both having projecting 2-storey gables to the Priory Road elevation.
7. The orientation of 7 Brooklyn Avenue, and the timber panel fencing to the Priory Road 'frontage' of the property, are visually awkward in the streetscene; detracting from the visual coherence of the semi-detached houses. The existing open vehicular access to Brooklyn Avenue and the substantial 2-storey extension to No 7 are also somewhat incongruous in the streetscene.
8. The proposed development would entail various works to 7 Brooklyn Avenue, including changing the 'rear' vehicular access to a garden, with fencing to separate it from Brooklyn Avenue; the provision of two off-street car parking spaces to the 'front' of the building by Priory Road; and, the blocking up and re-orientation of various windows and doors.
9. In the side garden of No 7, a new 2-storey, gable fronted detached dwelling would be erected facing towards Priory Road, with two off-street car parking spaces provided. The proposed dwelling, the host building and 2A Priory Road would all face towards Priory Road as a result of the proposal. The remainder of the curtilage of the proposed dwelling would be enclosed by timber fencing, of a similar scale and appearance to the existing fencing.
10. There would be some reduction in spaciousness at the corner as a result of the proposed dwelling. However, the broad open junction with footpaths, together with the 124 sqm garden space of the proposed dwelling, means that this would not significantly detract from the character and appearance of the area. Views of the fencing and side elevation of the proposed dwelling would not be dissimilar to the existing views towards the side of No 7.
11. The Council is concerned at the loss of several trees from the garden, which make a positive contribution to the character and appearance of the area. However, the trees do not benefit from any statutory protections and could be removed by the appellant without further recourse. I also note that several trees are assessed to be diseased. In any event, I am satisfied that the retained trees, a Laburnum, an Apple tree and a Purple Plum tree, together with further planting, would mean that their loss would not be harmful to the character and appearance of the area.
12. The design, scale, massing, materials and orientation of the proposed dwelling would not be out of keeping with the host building or the wider streetscene, at this prominent location. Furthermore, the proposed development would resolve some of the existing issues that detract from the character and appearance of the area, including how 7 Brooklyn Avenue addresses the adjoining streets.

13. For these reasons the proposed development would not adversely affect the character and appearance of the area. Consequently, it would not conflict with policies CP2 (protecting the quality of the rural and built environment), CP7 (urban form and quality) and DBE1, which concerns the erection of new buildings, of the Epping Forest Local Plan 1998 and Alterations 2006 (EFLPA); with draft policy DM9 (high quality design) of the Submission Draft Epping Forest Local Plan 2017 (SDEFLP); and, with the National Planning Policy Framework 2021 (the Framework), in this regard.

Parking provision and highway safety

14. The proposed development would entail the creation of two new vehicular accesses to Priory Road, together with the stopping up of a vehicular access on Brooklyn Avenue.
15. There would be no change in the quantum of off-street parking provision at the host building, 7 Brooklyn Avenue, although the location would change so as to be off Priory Road. Whilst a new vehicular access would be created on Priory Road, the access on Brooklyn Avenue would be closed, resulting in no quantitative change to the existing situation.
16. The proposed detached dwelling would also have two off-street car parking spaces, which would accord with the Council's parking requirements, and these would be accessed via a new dropped crossing on Priory Road.
17. The new vehicular access would result in the loss of some on-street car parking capacity. However, there is no compelling evidence to demonstrate that this is an area of parking stress, or that the limited reduction in on-street parking capacity would be detrimental to the area.
18. At the time of my visit, mid-afternoon, there was little on-street parking activity on Priory Road or Brooklyn Avenue. I also note that the Council received no objection to the proposal from the Local Highway Authority, Essex County Council.
19. For these reasons the proposal would have an acceptable impact on parking provision and highway safety. Consequently, it would not conflict with policies ST4 (road safety) and ST6 (vehicle parking) of the EFLPA; with draft policy T1 (sustainable transport choices) of the SDEFLP; or with the Framework, in this regard.

Epping Forest SAC

20. The appeal site lies within a zone of influence for the Epping Forest SAC, whose qualifying features include Beech forests on acid soils with *Ilex* and *Taxus* in the shrub-layer; wet heathland with cross-leaved heath; and dry heath (Annex I habitats). Stag Beetles (Annex II species) are also widespread in the SAC.
21. In its Local Plan Habitats Regulations Assessment (HRA) the Council has identified two pathways from residential development that may lead to significant adverse effects on the SAC. The pathways are Air Quality, as a result of more people driving within and in the vicinity of the SAC; and, Recreational Pressures, as a result of more people using the SAC for recreational purposes such as walking.
22. The Council has provided me with a Cabinet report and Minutes from 11 April 2022 regarding the Partnership Agreement for Strategic Access Management

and Monitoring (SAMM) measures. The report sets out the current mitigation measures for likely significant effects on the SAC from Recreational Pressures and the updated financial contributions that are required for the SAMM measures¹, as well as financial contributions required for the provision of Suitable Alternative Natural Greenspace (SANG) in the area².

23. Financial contributions from developers are also required towards the implementation of the Interim Air Pollution Mitigation Strategy 2020. Natural England, the Appropriate Nature Conservation Body (ANCB) was involved in this process and is satisfied with the approach to mitigation. I am satisfied that the proposed development would adversely affect the integrity of the SAC but that with appropriate mitigation, this matter can be satisfactorily addressed.
24. The appellant is aware of the need to mitigate adverse effects on the SAC from the proposed development and has provided a signed Unilateral Undertaking Planning Obligation under S106 of the Town and Country Planning Act 1990 (as amended), dated 11 July 2022.
25. For Planning Obligations, details of each person's title to the land are needed and in written representations appeals like this one, the appellant will need to provide evidence of title to the Inspector. Normally this is in the form of an up to date copy entry or entries from the Land Registry³. However, in this case, no such evidence has been provided, and I am not, therefore, satisfied that the planning obligation is legally sound in this regard.
26. I note from the email correspondence of 11 July 2022 that the Council has received payment of the fees. However, it is not clear whether the financial contributions specified have also been paid.
27. In any event, the Recreational Pressures financial contributions specified in the submitted Unilateral Undertaking, and which presumably are the ones the appellant claims to have paid to the Council, are out of date. Amongst other things, the Cabinet report dated 11 April 2022 states that in addition to the increased SAMM contribution of £1852.63 per dwelling, a SANG contribution of £716 per dwelling is also required. This means that the mitigation payments agreed by the Council and Natural England have not been secured.
28. For these reasons I am not satisfied that the proposed development would not harm the integrity of the Epping Forest SAC. It would therefore conflict with draft policies DM2 (Epping Forest SAC and the Lee Valley SPA) and DM22 (air quality) of the SDEFLP, and with the Framework in this regard.

Conclusion

29. The proposed development would have an acceptable impact upon the character and appearance of the area and on parking provision and highway safety. However, the harm to the Epping Forest SAC outweighs this.
30. For the reasons given above, and taking into account all relevant matters, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR

¹ Paragraph 20 of the Cabinet report

² Paragraph 19 of the Cabinet report

³ Paragraph N.5.2 of the Procedural Guide: Planning Appeals – England, April 2022