



Appeal Decision

Site visit made on 18 January 2023

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/J1535/W/22/3297824

142 Buckhurst Way, Buckhurst Hill, IG9 6HP

- 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 Balwinder Chahal against the decision of Epping Forest District Council.
 - The application Ref EPF/2056/19, dated 16 August 2019, was refused by notice dated 3 November 2021.
 - The development proposed is demolition of bungalow and construction of a two storey building of four luxury flats with room in the roof.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of bungalow and construction of a two storey building of four luxury flats with room in the roof at 142 Buckhurst Way, Buckhurst Hill, IG9 6HP in accordance with the terms of the application, Ref EPF/2056/19, dated 16 August 2019, subject to the conditions in the attached schedule.

Preliminary Matter

2. Consultation on further main modifications to the emerging Local Plan closed in December 2022. The Council indicates that it is reviewing the representations received and awaiting further comments from the Inspector. It is therefore not necessarily certain that the emerging policies referred to in the appeal will be adopted in that form. Whilst the examination is well advanced in general terms the provisions of the Plan cannot yet be given significant weight.

Main Issues

3. These are the effect of the proposed development on the character and appearance of the surrounding area and whether living conditions for future occupiers would be satisfactory with reference to accessibility.

Reasons

Character and appearance

4. The appeal site is occupied by a bungalow which is located within an area largely comprising short two-storey terraces. A public right of way runs along its southern side. The proposed building would be two-stories in height with rooms in the roof and car parking along the frontage.
5. There is an extant planning permission for a first floor extension and conversion into two 4-bedroom houses. The dimensions of the permitted building would be almost identical to the proposal although there would be

differences in the design of the front elevation which incorporates two entrances rather than one as proposed. Previously an appeal for a two-storey block of four flats was allowed in 2018 (Ref: APP/J1535/W/17/3188660) but this permission has now lapsed. Nevertheless, both of these previous decisions are important material considerations. Amongst other things, they show that the loss of the existing bungalow has been accepted.

6. The proposal should firstly be considered in its own right and not just compared to what has gone before. In this respect the overall bulk of the building would broadly reflect the adjoining terraces although it would not be as wide. Because of the drop in levels the eaves and ridge lines would be below those of No 140. Full hips are prevalent nearby but the proposed half hips for the main roof would not be out of place in a residential setting. The design of the front elevation incorporates canted bays at first floor level below a projecting gable and so would pick up on this characteristic feature of the terraces. The central door would not be a significant element in the street scene. In this way, the proposal would fit in with the general scale and pattern of development.
7. Four flats could reasonably be expected to lead to more activity than the two houses permitted. However, this amount of development has previously been accepted. In any event, the associated vehicle movements would be unlikely to be significant in the context of existing traffic flows along Buckhurst Way. Furthermore, the general comings and goings would be imperceptible within this fairly densely developed suburban area. Two of the flats would have partly obscure glazed flank windows but this, in itself, does not indicate that the proposal would lead to an over intensive use of the site.
8. The Council is concerned that the proposal 'pushes the boundaries' as the amount of development proposed has gradually increased over time. However, the National Planning Policy Framework indicates that development that makes efficient use of land should generally be supported. This should take account of the desirability of maintaining an area's prevailing character and that is what this scheme would do.
9. Indeed, the character and appearance of the surrounding area would not be harmed. As such, there would be no conflict with Policy CP7 of the Epping Forest District Local Plan and Alterations which is concerned with urban form and quality. Policies DM9 and DM10 of the emerging Local Plan are also concerned with high quality housing design and the proposal would be consistent with their aims.

Accessibility

10. The Framework indicates that developments should create places that are accessible. The Council alleges that the proposal has had little regard to evolving sustainable development objectives. In particular, that the opportunity has not been taken to make greater progress towards achieving lifetime homes by incorporating lift access to the upper floors. The Local Plan does not contain such a requirement and the proposal would not be contrary to Policies CP1, CP6 or CP7 in this respect. This is not a requirement of the design policies in the emerging Plan either.
11. Main modifications proposed to Policy H1 of the emerging Plan nevertheless refer to all new homes being built to accessible and adaptable dwelling standards in accordance with Building Regulations requirement M4(2).

However, this does not expressly require internal lifts. There would be level access from the front parking area and a ramp would allow easy access to the rear garden. The ground floor flats include steps down to the living room and kitchen but the Council's expectations are not for wheelchair user dwellings. Although this is not ideal there would appear to be scope to incorporate an internal slope if required.

12. Furthermore, the permitted houses included steps down to the rear external areas which the proposal would address. It is also relevant that this scheme would have been devised in 2019 when the examination was in its early days and Policy H1 was less explicit. Given the current status of the emerging policy and the development that could otherwise be carried out, the proposal would create a place that is reasonably accessible. Therefore living conditions for future occupiers would be satisfactory.

Other Matters

13. The reasons for refusal refer to policies concerned with the effect on existing properties and loss of amenity although such objections are not substantiated in the text. In any case, the relationship with neighbouring dwellings would be satisfactory given their relative positioning and the distances involved and there would be no significant overlooking.
14. Similarly, a policy regarding road safety is included together with emerging policies regarding sustainable transport choices and the safeguarding of facilities. However, no such objections are raised and there is no evidence that there would be unacceptable impacts in these respects. The site is also close to Roding Valley station. The level of parking proposed would be adequate.
15. Epping Forest Special Area of Conservation (SAC) has been identified for its value in respect of beech trees, wet and dry heaths and its population of stag beetle. The site is within its zone of influence and so the proposal would be likely to result in recreational disturbance due to new residents living in close proximity to the Forest. Furthermore there would also be liable to be increased traffic through the Forest and consequent atmospheric pollution. In combination with other development in the District, there would therefore be a likely significant effect on the designated features of the SAC.
16. The Council has developed an Interim Approach to mitigate these effects by securing financial contributions for access management schemes, strategic mitigation and monitoring. This follows Natural England's requirement to give substantial weight to recreational pressures and air quality and is reflected in Policies DM2 and DM22 of the emerging Plan as proposed to be modified. A planning obligation dated 26 August 2022 has been submitted which secures the requisite payments. The Council is consequently satisfied that this reason for refusal has been resolved.
17. Harmful effects would therefore be prevented by means of effective mitigation. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the SAC. There would be no conflict with Policy NC1 of the Local Plan which refers to SACs and the proposal would comply with the Conservation of Habitats and Species Regulations.

Conditions

18. The plans should be specified in the interests of certainty. To ensure a satisfactory appearance, details of external materials and the treatment of the front garden are required. Making provision for vehicle charging points is required to promote sustainable transport. The Framework indicates that the expansion of electronic communications networks, including full fibre broadband connections, should be supported and so a condition requiring this to be facilitated is necessary.
19. Given the proximity to existing residential properties, the hours of construction should be limited to protect living conditions. The lower sections of the side windows should be obscure glazed and fixed shut to safeguard the privacy of adjoining occupiers. To ensure that there is access to the parking spaces the crossover should be completed before first occupation.
20. Where necessary, the wording of the conditions suggested by the Council has been amended and simplified in the interests of clarity and to avoid overly onerous requirements.
21. The site is already in residential use and so the proposal would not make it any more vulnerable to contamination than it is at present. There is therefore no need for a condition expecting investigation and/or remediation. The Planning Practice Guidance on *Housing: optional technical standards* indicates that where there is a clear local need, local policies can require new dwellings to meet the tighter Building Regulations requirement for water efficiency. However, there is no indication that this has been included in the emerging Local Plan and therefore limiting usage to 110 litres per person per day is not justified.

Conclusion

22. The proposal would accord with the development plan and there are no material considerations which outweigh this finding. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings 19_7_001A, 002A, 003A, 004A, 005A and 006.
- 3) No development above ground level shall take place until details of the external materials and finishes of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development above ground level shall take place until details of the surfacing materials (which shall be porous), boundary treatments and landscaping of the front forecourt area have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and completed prior to the first occupation of the development hereby permitted.
- 5) No development above ground level shall take place until details of active and/or passive electric vehicle charging points have been submitted to and approved in writing by the local planning authority. The details shall include the location and type of the infrastructure, the specification of the charging equipment and an operation/management strategy. The approved charging points shall be provided prior to the first occupation of the development hereby permitted.
- 6) Building works to carry out the development hereby permitted which are audible at the site boundaries shall only take place between 07.30 - 18.30 hours on Monday to Friday and 08.00 - 13.00 hours on Saturday. There shall be no working on Sundays or Public Holidays.
- 7) No development above ground level shall take place until a strategy to facilitate super-fast broadband connections for future occupiers has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved strategy and in accordance with any agreed timescales.
- 8) The vehicle crossover shown on drawing 19_7_06 shall be completed prior to the first occupation of the development hereby permitted.
- 9) Prior to the first occupation of the development hereby permitted, the windows in the northern flank elevation shall be obscure glazed below 1.7m above finished floor level with a minimum privacy level 3 obscurity. They shall also be fixed shut below 1.7m above finished floor level. Thereafter those parts of the windows shall remain obscure glazed and fixed shut.