



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: 27 February 2023

Appeal Ref: APP/J1535/W/21/3289165

11 Crossfields, Loughton IG10 3PY

- 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 Oleg Kovalenko – The Interiors Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/0975/19, dated 11 April 2019, was refused by notice dated 3 November 2021.
 - The development proposed is erection of new dwelling, following demolition of existing garage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of single storey extension and erection of new attached dwelling, following demolition of existing garage at 11 Crossfields, Loughton IG10 3PY in accordance with the terms of the application, Ref EPF/0975/19, dated 11 April 2019, subject to the attached schedule of conditions.

Applications for costs

2. An application for costs was made by Mr Oleg Kovalenko against Epping Forest District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have considered the appeal on the basis of the revised description on the Council's decision notice which includes reference to a single storey rear extension on the existing dwelling. This more accurately reflects the development shown on the proposed drawings and it is clear from the comments made during the application process that the proposal was consulted upon on that basis.
4. The Policies referred to in the Council's decision notice include Policies DM2, DM22, DM9 and T1 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

5. The main issues are the effect of the proposal on:

- (i) the Epping Forest Special Area of Conservation (SAC); and
- (ii) the character and appearance of the area.

Reasons

Epping Forest SAC

6. The site is located within 3km of the SAC and is therefore within the zone of influence (ZoI) of this 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 within the framework of an Appropriate Assessment (AA). This responsibility falls to me in the context of this appeal. In this respect, I am mindful of the advice within the Planning Practice Guidance (PPG) including that an AA must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project.
7. From the information before me, the designation of the Epping Forest SAC reflects the presence of 3 qualifying habitats (Atlantic Beech forests on acids soils, Northern Atlantic wet heaths with cross-leaved heath and European dry heaths) as well as one qualifying species (Stag beetle). The conservation objectives identified for the SAC include ensuring that the integrity of the site is maintained or restored. The site should also contribute to achieving the favourable conservation status of its qualifying features by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and the habitats of qualifying species; the supporting processes on which these rely; and the population and distribution of the qualifying species.
8. The SAC and its qualifying features are at risk from increases in nitrogen oxide, ammonia and nitrogen deposition, largely emitted by vehicular traffic. Proposals for development are likely to generate such traffic and are therefore, either alone or in combination with other schemes, likely to have a significant effect on the quality features of interest of the SAC. In addition, an increase in residents would generate additional recreational pressure upon the SAC that could affect its integrity.
9. The new dwelling has the potential to have an adverse impact on the SAC in terms of increased recreational pressure and in terms of air pollution as a result of a net increase in traffic. In combination with other development in the area, there is the potential that this would have a significant adverse effect on the SAC.
10. The mitigation measures to counter such impacts are set out in the following strategies adopted by the Council:
 - an Interim Air Pollution Mitigation Strategy (IAPMS),
 - an Interim Strategic Access Management and Monitoring Strategy (SAMMS) and
 - an Interim Green Infrastructure/Suitable Alternative Natural Greenspace Strategy (GI/SANGS Strategy).

11. The above strategies include developer contributions which are designed to, collectively, fund the mitigation measures required to ensure that the in-combination impacts of new housing will not give rise to an adverse effect on the integrity of the European site. The developer contributions apply to new residential development on a net new dwelling basis. With regards to SAMMS, the Council agreed at its Cabinet meeting on 11 April 2022 to adopt updated financial contributions attributable to new development in the district. This is based on an approach to apportioning SAMMS costs to individual local authorities, based upon the likely increase in visitor pressure from each local authority as a result of development through respective Local Plans.
12. The appellant has provided a Unilateral Undertaking (UU) dated 20 February 2023. The UU includes financial obligations reflecting the expectations of the above strategies, namely £335 in line with the IAPMS and £716 as per the GI/SANGS Strategy. The UU also includes the updated apportionment for SAMMS of £1,852.63. This is the relevant figure for new dwellings within 3km distance of the SAC such as the appeal proposal, to address the anticipated costs of additional recreational pressure due to new housing within the ZoI.
13. Natural England (NE) have confirmed that it is supportive of the approach that the Council has adopted in terms of SAMMS and GI/SANGS and that it is supportive of the IAPMS in principle. NE confirmed when commenting on an earlier draft of a legal obligation which included the same contributions that it was content that such obligations would meet the expectations of the Council's strategies to avoid adverse effects on the integrity of the SAC.
14. The UU provided also includes several unnecessary references to affordable housing. In any case, I am satisfied that this does not impact upon the effectiveness or enforceability of the provisions relating to mitigation for the Epping Forest SAC. In the context of the single dwelling proposed, and that the UU meets the expectations of the adopted mitigation strategies, I am satisfied in this instance that the proposal would not adversely affect the integrity of the SAC, either alone or in combination with other plans and projects.
15. I have also attached the conditions suggested by the Council requiring electric vehicle charging points and a high-speed broadband connection to be provided, both of which accord with additional measures identified in the IAPMS.
16. I conclude, the contributions in the appellant's UU and the above conditions are sufficient in this instance to satisfactorily address any effects associated with the proposed development and its likely effects on the SAC. Accordingly, it would comply with Policies DM2 and DM22 of the LPSV and the Habitats Regulations.

Character and appearance

17. The appeal site is located within a close-knit residential area. Crossfields is predominantly characterised by two-storey semi-detached and terraced dwellings, set back from front boundaries. Several dwellings on this road are served by hard paved forecourts. There are a mix of roof forms in the area. For example, the semi-detached pair of dwellings that No 11 Crossfields forms part of have matching hipped roofs. In contrast, the terraced rows at Nos 13 to 19 and 21 – 27 Crossfields are gable sided with a stepped roofline. There are a mix of facing materials in the area, some dwellings are rendered, others have brickwork facades. Overall, there is general consistency in terms of the scale

and position of dwellings relative to the street, but there is variety in their appearance.

18. The evidence before me confirms that the proposed dwelling is the same as the scheme that was considered under a previous appeal on the site.¹ The Inspector in that case noted the subservient design of the proposal, including a set back to the front elevation and the ridgeline set down relative to the roof of the existing dwelling at No 11. I saw for myself during my site visit that the three parking spaces proposed would occupy an area already hard surfaced and available for the parking of vehicles. Consequently, the proposed parking would not appear over intensive when compared with the existing situation. Furthermore, given the proposal relates to a single dwelling with off-street parking facilities there would not be any tangible effect on on-street parking from a character and appearance perspective.
19. The Council has not advanced any material changes in circumstance in terms of the design of the proposal, site context or policy requirements since the previous Inspector's consideration of the proposal. I agree with the previous Inspector that, while the proposal would reduce the openness of this corner of the estate, this would not be to the extent that it would be materially harmful to the character and appearance of the area.
20. I conclude, the development would have an acceptable effect on the character and appearance of the area. In that regard, it would comply with the design and character requirements of Policies CP2, CP7, DBE1 and DBE11 of the Epping Forest Local Plan (1998 Alterations 2006) (the LP), Policy DM9 of the LPSV and the National Planning Policy Framework.

Other Matters

21. The Council's second reason for refusal principally relates to character and appearance and I have considered the reference to the intensity of on-street parking in the area within that context. However, Policies ST4 (Road Safety) of the LP and T1 (Sustainable Transport Choices) of the LPSV are referenced amongst the policies listed in the decision. On my site visit, I saw for myself that there was a prevalence of on street parking in the area, that many houses in the area lack parking and that the roads are relatively narrow resulting in some cars being parked on pavements and verges.
22. Notwithstanding the above, I agree with the previous Inspector that the three parking spaces proposed would adequately serve the two modestly sized dwellings in this case having regard to the close proximity of the site to Debden Underground Station and other services and facilities. The highway authority has raised no objection to the proposal, also noting the accessible location with access to other modes of sustainable travel. Taking these matters into account, I am satisfied that the proposal would not result in any material harm to highway safety nor would it result in any significant inconvenience for users of the highway in the area beyond the existing situation. In these respects, the proposal would not conflict with the above policies.
23. With regards to other issues raised by third-parties, there is no objective evidence before me to suggest that sewers in the area could not accommodate the development. On a visual inspection of the drawings the internal room

¹ Appeal Ref APP/J1535/W/18/3208248

arrangements look adequate to provide acceptable living conditions and there is no detailed evidence before me to suggest otherwise. Noise and activity associated with the addition of a single dwelling would be unlikely to be above levels usually expected within a residential area.

24. During my site visit, in views from Crossfields and Deepdene Road, I was able to appreciate the spacing between neighbouring dwellings and gardens to the rear of the appeal site. Even though the development would be visible from neighbouring properties, this alone does not mean it would be materially harmful to neighbouring living conditions. A generous separation distance would be provided from the rear elevation of the dwelling to the rear boundary of its garden. In combination with neighbouring garden depths this would be sufficient to ensure that the new dwelling would not be overbearing and that acceptable levels of outlook, privacy and light would be retained for neighbouring occupiers.
25. No windows are proposed to first floor side elevations and the layout, scale and position of the development, including the single storey rear extension, is such that there would also be an acceptable relationship with the neighbouring dwellings to either side of the site. Property values and restrictive covenants are not material to my assessment of the planning merits of the proposal.

Conditions

26. I have had regard to the Council's suggested conditions and attach the standard timescale for implementation and an approved drawings condition in the interests of certainty.
27. I have attached the suggested surface water disposal condition in the interests of ensuring an acceptable drainage solution is incorporated. The suggested condition requiring water efficiency measures to be incorporated is included in the interests of sustainability. The aforementioned conditions requiring 2 'Electric Vehicle Charging Points' to be installed and a strategy to facilitate super-fast broadband are required in support of improvements to air quality in line with the Council's commitments to protect the integrity of the Epping Forest SAC. A requirement for external materials to match those of the existing dwelling is necessary in the interests of ensuring the dwelling effectively assimilates into the street scene.
28. I have included the suggested condition requiring all material excavated to be removed to ensure the levels on the appeal site are not altered other than by agreement with the Council. Given the layout of the proposal, the area's close-knit character and the general consistency of scale of surrounding dwellings, it is reasonable and necessary to remove permitted development rights for the enlargement of the new dwelling, alterations to its roof and for the provision of any new outbuildings so that the Council can ensure any such development is of an acceptable appearance and protects neighbouring living conditions.
29. Due to the close proximity of the development to side boundaries, a condition to prevent any windows other than those shown on the approved drawings from being inserted on the side elevations of the development is necessary in the interests of protecting the privacy of neighbouring occupiers.

30. Given an existing outbuilding would sit within the curtilage of the new dwelling, it is reasonable to attach the suggested condition restricting its use to being incidental to the new dwelling, in the interests of certainty. I have also attached the conditions requiring wheel washing facilities during construction works and specifying the hours that construction works can take place in the interests of highway safety and protecting neighbouring living conditions.
31. No policies or site-specific justification has been provided to indicate that a scheme for ecological enhancement, quantified using a Biodiversity Impact Assessment Calculator, would be necessary or achievable in this instance. Therefore, I have not attached this suggested condition.

Conclusion

32. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
33. I have found that the effect of the proposal on the Epping Forest SAC would be suitably mitigated. The proposal would also have an acceptable effect on the character and appearance of the area.
34. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

M Russell

INSPECTOR

Schedule of Conditions

- (1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 location plan (Produced 20 Feb 2006), AP1.1 (Proposed Floor Plan), AP1.2 (Proposed Floor Plan), AP1.3 (Proposed Floor Plan), AP2.1 (Proposed Elevation), AP 2.2 (Proposed Elevation), AP 2.3 (Proposed Elevation) and AP2.4 (Proposed Elevation).
- (3) Prior to preliminary ground works taking place in relation to the dwelling hereby approved, details of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The approved details of surface water disposal shall then be implemented prior to the first occupation of the dwelling and shall be retained for the lifetime of the development.
- (4) Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the Local Planning Authority. The strategy shall seek to ensure that upon occupation of the dwelling hereby approved, either a landline or ducting to facilitate the provision of a broadband service to the

site, is in place and provided as part of the initial highway works and in the construction of the frontage threshold to the site, unless evidence is put forward and agreed in writing by the LPA that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy unless otherwise agreed in writing by the Local Planning Authority.

- (5) Prior to first occupation of the dwelling hereby approved, measures shall be incorporated within that dwelling to ensure a water efficiency standard of 110 litres (or less) per person per day.
- (6) Prior to first occupation of the development hereby approved, 2 Electric Vehicle Charging Points - 1 for No 11 Crossfields (existing dwelling) and 1 for the dwelling hereby approved shall be installed and shall be retained thereafter for use by the occupants of the site.
- (7) Materials to be used for the external finishes of the dwelling hereby approved shall match those of the existing dwelling at No 11 Crossfields, unless otherwise agreed in writing by the Local Planning Authority.
- (8) All material excavated from below ground works associated with the development hereby approved shall be removed from the site unless otherwise agreed in writing by the Local Planning Authority.
- (9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the Order) (or any other order revoking and re-enacting that order) no development permitted by virtue of Classes A, AA, B & E of Part 1 to schedule 2 of the Order shall be undertaken, without the prior written agreement of the Local Planning Authority.
- (10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, other than those expressly authorised by this permission by virtue of the approved drawings, shall be constructed on the side elevations of the development, without the prior written agreement of the Local Planning Authority.
- (11) The existing 'outbuilding' to the rear of No 11 Crossfields, shown on the approved plans to be retained within the rear garden of the dwelling hereby approved, shall only be used for purposes incidental to the residential use of the dwelling hereby approved and shall not be used for any primary residential accommodation.
- (12) Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and retained for the duration of construction works to implement the development hereby approved. The wheel wash facilities shall be utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed immediately.

- (13) No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays without the prior written permission of the Local Planning Authority.