



Appeal Decision

Site visit made on 25 January 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal Ref: APP/J1535/W/22/3297405

Garages to the rear of 2-12 Station Way, Buckhurst Hill IG9 6LN

- 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 Atkinson - Northill Properties Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/2298/21, dated 17 August 2021, was refused by notice dated 30 March 2022.
 - The development proposed is development of 4 two storey terraced houses, 4 new car parking spaces and landscaped access way.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The policies referred to in the Council's decision notice include policies 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 the policies of the LPSV 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.
3. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.

Main Issues

4. The main issues are:
 - (i) The effect of the proposal on the Epping Forest Special Area of Conservation (SAC);
 - (ii) the effect of the proposal on the character and appearance of the area;
 - (iii) whether suitable living conditions would be provided for occupiers of the proposal with particular regard to the provision of private amenity space; and
 - (iv) whether the proposal would make adequate provision for off-street parking.

Reasons

Epping Forest SAC

5. The site is located within the zone of influence (ZoI) 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 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.
6. The designation of the Epping Forest SAC reflects the presence of 3 qualifying habitats (Atlantic Beech forests on acids soils, European dry heaths and Northern Atlantic wet heaths with cross-leaved heath) 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.
7. The proposal would result in the residential occupation of the site. An increase in population within the ZoI has the potential to have an adverse impact on the SAC resulting from increased recreational pressure and in terms of air pollution resulting from a net increase in traffic.
8. I accept that the existing garages on the site have the potential to generate some vehicular activity. However, the appellant's traffic activity report, dated October 2021, refers to activity being recorded over a 10 day period but only provides data for 9 days. There were no more than 2 visits to and from the site on 6 of these 9 days. The evidence before me also suggests that the garages are now primarily used for storage purposes and do not meet the needs for modern vehicles. Therefore, there is nothing before me to suggest there is demand for the garages to be used for a more intensive use than presently exists.
9. Moreover, there is no detailed evidence, for example modelled traffic data, to persuade me that vehicular movements related to the four dwellings would be less than the existing or potential scenarios relating to the existing buildings. Such evidence would need to take into account both the occupiers of the proposed dwellings and their visitors, including but not limited to deliveries. Therefore, I cannot reach complete, precise and definitive findings on the likely effects of the development on air quality.
10. Recreational use of the SAC is not linked to the current use of the site as garages. As identified in the appellant's Habitats Regulation Assessment, the development would provide permanent residences for people that may wish to visit the SAC for recreational purposes. The SAC is 0.3km from the application

site which is within reasonable walking distance. Therefore, the proposal would have a likely significant effect in respect of recreational pressure.

11. The appellant has provided a signed Unilateral Undertaking dated 26 October 2022 which includes a recreation contribution. It would typically be necessary for me to consult Natural England to enable me to undertake the AA and to assess the effectiveness of the UU in terms of mitigating any recreational and air quality impacts having regard to any up-to-date strategies for addressing any such impacts. However, given that I am dismissing the appeal for other reasons, it has not been necessary to pursue this matter any further as a finding that any effects on the SAC would be adequately mitigated would not overcome my overriding concerns.
12. Notwithstanding the above, in view of the fact that I cannot reach a definitive conclusion in respect of the effect on air quality, I can only conclude that the proposed development, alone and in combination with other plans and projects, would likely have a significant adverse effect on the integrity of the SAC. No mitigation is before me in this regard. This would conflict with the requirements of the Regulations, as well as the nature conservation and mitigation requirements of Policy CP1 (Achieving Sustainable Development Objectives) of the LP and Policies DM 2 (Epping Forest SAC and the Lee Valley SPA) and DM 22 (Air Quality) of the LPSV and the National Planning Policy Framework (the Framework).
13. The reason for refusal on the Council's decision notice in respect of this matter also refers to Policy CP6 (Achieving Sustainable Urban Development Patterns) of the LP. However, as this Policy does not specifically relate to effects on the SAC it does not alter my findings under this main issue.

Character and appearance

14. The appeal site is located within a predominantly residential area. The area is mainly characterised by two-storey, terraced and semi-detached dwellings and maisonettes. These properties are of a prevailing traditional design and more often have a strong linear alignment with frontages to the road. Buildings to the rear of existing residential properties are primarily of a modest scale and thereby display a more subservient character in the street scene.
15. The existing garages on the appeal site are single storey in scale and occupy a backland position, behind some of the frontage development on Station Way. The site backs on to a vegetated bank which flanks the London Underground railway, which is elevated at this point. The side elevations of the garages and the boundary wall on the appeal site are set back from the public footway on Buckhurst Hill with a soft landscaped area sitting between the two. These factors mean that the existing buildings have an understated presence when experienced from surroundings streets and neighbouring properties.
16. The two-storey scale of the proposed dwellings, sited in such close proximity to the rear of the buildings at Nos 2 – 12 Station Way, would be visibly at odds with the general spacing and hierarchy of scale of buildings within the street scene. Due to the limited space between the proposed and existing dwellings, the contemporary aesthetic would jar with the more traditional style of the frontage development on Station Way. Even accounting for the recessed brick detailing, the mass of brickwork to the front elevations of the end units would be stark and unappealing. As a result of all these factors, the development

would have a cramped and incongruous appearance which would significantly detract from the defining characteristics of the area.

17. The appellant suggests that the density of the development would be similar to some of the other developments in the area. However, from what I saw on site, none of the other development in the immediate area is of a similar design or layout to the appeal proposal. Most particularly, the nearest neighbouring development at Nos 2 – 12 Station Way is appreciated as having a spacious backdrop due to the low-rise scale of the existing buildings on the appeal site. The neighbouring flats at Nos 16 – 30 Station Way are also frontage development and have long rear gardens. Therefore, these other developments are perceived in the street in a very different way to the constrained appearance of the appeal proposal.
18. I conclude, the proposal would have a significantly harmful effect on the character and appearance of the area. In that regard it would conflict with the character, high quality design requirements of Policies CP2 (Protecting the quality of the rural and built environment), CP7 (Urban Form and Quality), DBE1 and DBE5 of the Epping Forest Local Plan (1998) and Alterations (2006) (LP). For the same reasons it would also conflict with the design and character requirements of Policies CP2 and DM 9 (High Quality Design) of the LPSV and the Framework.

Living conditions

19. A rear garden would be provided for each of the proposed dwellings. Acceptable levels of privacy would be achievable through the provision of high boundary treatments. The gardens would be level and easily accessible for the occupiers of the respective dwellings. The appellant's daylight and sunlight assessment indicates that a reasonable part of these gardens would receive sunlight for an acceptable period of the day. In these respects, the gardens would accord with many of the requirements of Policy DBE8 of the LP.
20. The policies before me do not specify minimum measurements for private amenity space. The appellant suggests that the Essex Design Guide provides a minimum guideline of around 25 square metres for a garden although I have not been provided with a copy of this guidance. In any case, the modest parameters of the gardens in this instance would be symptomatic of the development's cramped layout. These small gardens would be bordered by high boundary treatments and the mature trees on the railway embankment would have a further enclosing effect. In this particular instance I find these site-specific factors would be unduly limiting to the reasonable use and enjoyment of these spaces. Consequently, I find the rear gardens would not provide a high standard of amenity for occupiers of the development.
21. I conclude, the development would provide poor living conditions with particular regard to private amenity space. In this regard, it would conflict with the private amenity space and high quality design requirements in Policy DBE8 of the LP and Policies DM 9 (High Quality Design) and DM 10 (Housing Design and Quality) of the LPSV. It would also conflict with Paragraph 130 f) of the Framework which requires that developments create places with a high standard of amenity for future users.

Parking Provision

22. Policy ST6 (Vehicle Parking) of the LP confirms that development proposals will be expected to provide on-site parking in accordance with the adopted 2001 standards or its successor documents. The Council has confirmed that the local highway standards require that for units above one bedroom in size, two parking spaces per unit are required, and this is not disputed by the appellant.
23. Policy T 1 (Sustainable Transport Choices) of the LPSV confirms amongst other things that reduced car parking will be supported in sustainable locations. In that regard, I note the site's location close to Roding Valley Station. The evidence before me indicates that this station offers a maximum of four trains an hour. However, the Council has confirmed that nearby stations at Woodford and Buckhurst Hill offer significantly more frequent services. From what I saw, there are also local bus services. Overall, I therefore agree with the Highway Authority that the site is located in a sustainable location. This indicates that this may be a situation where reduced car parking provision might be acceptable.
24. On my site visit I saw that the site sits within a Controlled Parking Zone (CPZ) with on street parking reserved for resident parking holders Mondays to Fridays between the hours of 10am and 2.30pm. Double yellow lines mark the stretch of road opposite the site from the junction with Buckhurst Way. Even so, there is no detailed evidence before me to suggest that there are high levels of parking stress outside of the CPZ time restrictions, including in the evenings and early morning when it is more likely that a greater number of local residents would be at home.
25. The ground floor layout plan provided only includes vehicle tracking for a car leaving the site from the parking space closest to the boundary with No 14 Station Way. Without evidence to demonstrate otherwise, the space available to manoeuvre a car or van out of the parking space closest to the side elevation of the nearest proposed end dwelling would likely be more difficult. This adds to my concerns in respect of the cramped layout of the development. However, I accept that it would likely be physically possible to manoeuvre a vehicle in and out of this space.
26. Overall, taking into account the quantum and size of the proposed units, the off-street parking and secure cycle parking spaces that would be provided, and the public transport options available, it is unlikely that the development would result in levels of on-street parking that would be materially harmful to highway safety or which would cause any significant levels of inconvenience for other road users in the locality.
27. I conclude, the level of parking provision proposed would be acceptable in this particular instance having regard to the specific requirements to provide on-site parking provision in Policy ST6 (Vehicle Parking) of the LP and the Policy T 1 (Sustainable Transport Choices) of the LPSV.

Other matters

28. Transport for London raised no objection to the proposal subject to a condition being attached requiring detailed design and method statements on a range of matters including that there should be no opening windows facing the London Underground (LU) elevation. The Council's suggested conditions include a

requirement to 'mitigate the effects of noise and vibration arising from the LU and for an agreement not to object to any noise or vibration or other issues experienced'.

29. However, the design of the scheme includes main habitable windows on the rear elevation and there is nothing before me to demonstrate that these would not be openable. Furthermore, in the absence of any detailed evidence to demonstrate otherwise, I could not be certain that noise from the LU could be satisfactorily mitigated or that future occupiers would be legally bound to agree not to object to issues that might arise as a result of the development's close proximity to the LU. This adds to my concerns that the constrained nature of the development relative to its surroundings has not been adequately addressed.

Conclusion

30. My attention has been drawn to appeal decisions in April 2021 relating to Epping Forest College¹ where there was common ground between the parties in that instance that the Council could only demonstrate a maximum housing land supply of 2.43 years. I am not aware that the Council is now able to demonstrate a five-year housing land supply. Moreover, the Government's most recently published Housing Delivery Test (HDT) measurement indicates that the number of homes delivered in the area is below the number of homes required with a HDT measurement of 35%.
31. In the circumstances, the presumption in favour of sustainable development under Paragraph 11d of the National Planning Policy Framework (the Framework) is triggered. Planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
32. The development would utilise brownfield land within a settlement and this attracts substantial weight in accordance with the Framework. In the context of the Government's objective to significantly boost the delivery of housing, four two-bedroomed dwellings would make a modest but important contribution towards the provision and mix of housing in the area. I also attach positive weight to the economic and social benefits that would accrue through the development of the site and the use of local services and facilities by occupiers of the proposal.
33. However, the proposal would result in significant harm to the character and appearance of the area and would not provide a high standard of amenity for future occupiers in terms of the provision of private amenity space. In these respects, 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 benefits identified.
34. 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 the legal obligation put forward would secure appropriate mitigation to address any such effects. This is a matter which further weighs against the proposal.

¹ APP/J1535/W/20/3258787 & APP/J1535/W/20/3263876

35. I therefore conclude that the appeal should be dismissed.

M Russell

INSPECTOR