



Appeal Decision

Site visit made on 4 July 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2023

Appeal Ref: APP/J1535/W/22/3312966

5 Grange Crescent, Chigwell IG7 5JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by A.R.Property Designs against the decision of Epping Forest District Council.
 - The application Ref EPF/0172/21, dated 21 January 2021, was refused by notice dated 8 August 2022.
 - The development proposed the demolition of the existing dwellinghouse and its replacement with a new build to provide 5 new flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline with all matters other than access and scale reserved for future consideration. I have determined the appeal on this basis. I have taken the submitted plans into account for indicative purposes only where they relate to matters other than access and scale.
3. I have taken the description of development from the Council's Decision Notice as this is more precise.
4. The Epping Forest District Local Plan 2011 to 2033 was adopted by the Council on 6 March 2023. This has replaced the Epping Forest District Local Plan (1998) and the Epping Forest District Local Plan Alterations (2006). The Council confirmed that the relevant policies for the appeal are DM2, DM9, DM22 and T1. I have therefore determined the appeal having regard to these policies. The appellant was given the opportunity to comment on the new policies.

Main Issues

5. The main issues are the effect of the proposed development on 1) the character and appearance of the area, 2) highway safety with regard to parking provision, and 3) the Epping Forest Special Area of Conservation, with particular regard to any mitigation measures required.

Reasons

Character and appearance

6. The appeal property currently comprises a two-storey semi-detached dwelling with front and rear gardens. It is located on Grange Crescent which is a residential street comprising of mainly two-storey semi-detached properties

such as that on the appeal site, and a small number of detached properties. Many of the properties in the street have been extended.

7. From my observations on my site visit and from the evidence in the submitted representations, the street is made up of large single dwellinghouses that appear to be typical family sized, and family occupied, housing. The properties are set in spacious plots with large rear gardens. Some properties have landscaped front gardens and parking, whilst others have hardstandings to the front. Grange Crescent itself is a 'P' shaped cul-de-sac arrangement. This noticeable lack of through traffic gives the street a relatively quiet setting.
8. The spaciousness of the existing properties, including their plots, and the relatively quiet environment, are positive characteristics of the street. Also, the consistency and uniformity that is displayed across the dwellings positively contributes to the character of the street.
9. The indicative plans show how the proposed development could be designed to appear as an extended semi-detached property in a similar manner to the extended semi-detached properties in the street. The plans also indicatively show the layout as subdividing the rear garden as a private amenity space for one of the units and a shared amenity space for the remainder of the units. The frontage of the property is indicatively shown to provide for 4no. parking spaces.
10. In terms of the resulting appearance, which although a matter reserved for future approval, I consider that the indicative plans show how a development could be successfully accommodated on the site without harming the appearance of the area.
11. In terms of character however, the proposed development would be significantly at odds with the existing make-up of the surrounding area. It would harm those positive characteristics of the area which I have identified above. The function of the appeal site as five flats, as opposed to the single dwellinghouse of the type that is predominantly within the street, would be of a materially different nature. There would be a greater intensification in the use of the appeal site for five dwellings, in terms of comings and goings of residents, deliveries and visitors that would be harmfully out of character with the established make-up and ambiance of the surrounding area.
12. When considered against the existing make-up and ambiance of the area, I share the Council's concern that it would amount to overdevelopment of the site, if not in terms of its scale or indicative physical appearance, but its concentration and quantum of dwellings.
13. The proposed development would therefore dramatically alter the character of the appeal site and how it relates to its surroundings. It would contribute to the erosion and dilution of the pleasant spacious character of the surrounding area that is predominantly made up of large dwellings in spacious plots.
14. Whilst each application and appeal must be considered on its individual merits, allowing the appeal could be used in support of such similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern given the shared characteristics with similar properties in the street. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their

cumulative effect would contribute to an overall erosion of the positive characteristics of the area and creation of harm to the wider area which I have described above.

15. I therefore conclude that the proposed development would cause significant harm to the character of the area. It would be contrary to Policy DM9 of the Epping Forest Local Plan (2023) which requires, amongst other things, that development must contribute to the distinctive character of the local area, relating positively to its context, drawing on the local character. It would also be contrary to the requirement of the National Planning Policy Framework (2021) (the Framework) which requires, amongst other things, that developments are sympathetic to local character.

Highway Safety

16. The proposed development comprising five residential properties would represent a net increase of four dwellings. Although layout is reserved for future consideration, the indicative layout shows that four parking spaces are proposed to be provided to the front of the property. Details of access are submitted for approval and access would be taken directly from the street in a manner akin to the other properties in the street.
17. The Council consider that the on-site parking provision would be inadequate and that the proposed development would add to the parking stress within nearby streets. There is limited substantive evidence before me to support this argument and I did not observe any harmful highway safety conditions in relation to parking during my site visit.
18. I observed on my site visit that the site is within very close proximity to Grange Hill Underground Station. Although reference is made to the frequency of trains on this section of the line, which is not as frequent as other main line or more central stations, I do not consider it to be unreasonable in terms of providing a sustainable travel choice. I also observed that there are bus stops located on Manor Road which are within a short distance of the appeal site.
19. One side of the street has double yellow lines and there are also two-hour parking restrictions (applicable 8am to 6pm) in place. I also note that there was no objection to the proposed development from Essex County Council Highways in terms of parking or highway safety.
20. Therefore, having regard to the scale and type of development, the quantum of parking that is proposed, the proximity of the site to public transport, and the parking restrictions that are in place, the proposed development would not cause unacceptable harm to highway safety due to car parking provision. It would comply with Policy T1 of the Epping Forest District Local Plan (2023) which requires that development provides appropriate parking and does not result in a cumulative severe impact on the operation of the local highway network, or compromise highway safety.

Epping Forest Special Area of Conservation

21. The evidence before me indicates that the site is located within the zone of influence for the Epping Forest Special Area of Conservation (SAC) which is a European designated site. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) requires the Competent Authority to ensure that there are no significant adverse effects from the proposed

- development, either alone or in combination with other projects, that would adversely affect the integrity of European designated sites. The effects arising from the proposed development need to be considered in combination with other developments in the area and by adopting a precautionary approach.
22. The supporting text to Policy DM2 of the Epping Forest District Local Plan (2023) states that the SAC has particular importance as a bird habitat and was identified primarily for its value in respect of beech trees, wet and dry heaths, and its population of stag beetle. It also states that the SAC is currently assessed as being of 'unfavourable conservation status', in part as a result of the effects of air-borne pollutants, including from traffic.
23. 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 emissions from more people driving vehicles 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.
24. The Habitats Regulations require me to determine whether the development is likely to have a significant effect on the SAC, alone or in-combination with other plans or projects, applying a precautionary approach. Where it would be affected, consent can only be granted if there are no alternative solutions, there are imperative reasons of overriding public interest and suitable compensatory measures are provided.
25. The proposed development would be for five dwellings and result in a net increase of four dwellings within the zone of influence. Occupants of these dwellings would create additional recreational pressures on the SAC. There would also be an increase in traffic using the road network through the SAC and an increase in emissions as a result. Given the quantum of development, the amount of additional recreational visitors would be small and the likely effects on the SAC from the proposed development alone would not be very significant. However, in combination with other developments the proposal would likely have significant effects on the European protected site.
26. As such, the development would have an adverse effect on the integrity of the SAC, but regard can be had to whether these adverse effects can be mitigated. In this regard, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
27. Policy DM2 sets out that in designing mitigation measures, regard should be had to the Air Pollution Mitigation Strategy for the Epping Forest, the District's Green Infrastructure Strategy and Epping Forest Strategic Access Management and Monitoring Strategy. Contributions towards off-site measures to mitigate the likely impacts of air pollution and adverse recreational effects arising from a development will be sought where these are necessary to make the development acceptable, are directly related to the development and are fairly and reasonably related in scale to the development.
28. In this case, there is no legal agreement before me to secure the appropriate financial contributions to ensure that no harm is caused to the integrity of the protected site. In the absence of acceptable mitigation, I therefore conclude that the proposed development would cause harm to the integrity of the SAC.

29. The appellant considers that were I to find the proposed development acceptable in all other regards, appropriate mitigation measures could either be secured by condition, or that the appeal be held in abeyance until such time that a completed agreement can be submitted.
30. I acknowledge that the appellant does not dispute the mitigation requirements and would be willing to accommodate the requirements. However, as I am dismissing the appeal for other reasons, the presence of a completed agreement could not, in any event, lead to a different decision. It has therefore not been necessary for me to pursue this matter.
31. Nevertheless, in view of the absence of securing appropriate mitigation, the proposed development conflicts with the requirements of the Habitats Regulations, which are described above, and the relevant aspects of Policies DM2 and DM22 of the Epping Forest District Local Plan (2023) and chapter 15 of the Framework. Collectively, these policies permit development only where it is possible to conclude there is no adverse effect on the integrity of the SAC, alone or in combination with other plans or projects, and require consideration of air pollution risks and adequate mitigation to ensure sensitive receptors are not adversely impacted.

Other Matters

32. I appreciate that Council officers recommended approval of the application to the planning committee. However, it was within the committee's gift to make a decision on the application contrary to the officer recommendation, thus this consideration has had no bearing on my decision.

Planning Balance and Conclusion

33. The Government's objective as set out in the Framework is to support housing growth. The proposed development would result in a slight increase in the Council's overall housing number and would be in an accessible location. It would also bring a small number of additional residents to the area who would contribute to the local economy. I give these matters moderate weight in favour of the appeal.
34. However, although I have found that there would not be unacceptable harm to highway safety, the harm that would be caused to the character of the area and the failure to provide the necessary mitigation measures which would result in harm being caused to the integrity of the SAC, attracts significant adverse weight that outweighs the benefits associated with the proposed development.
35. I conclude that the proposed development would therefore conflict with the development plan for the area when considered as a whole and there are no identified other considerations that outweigh this conflict.
36. For the reasons set out above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR