
Appeal Decision

Site visit made on 4 June 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/J1915/W/23/3328900

3 East Riding, Tewin Wood, Tewin, Hertfordshire AL6 0PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Adamson against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1180/FUL.
 - The development proposed is the erection of 1x new dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. As a part of their submission the appellant has provided a Proposed Site Ecology Plan. This plan shows the additional trees that would be planted on site as a part of the proposed development and, therefore, it would not involve a fundamental change to the application. A Preliminary Ecological Assessment (PEA) and Biodiversity Net Gain Assessment (BNG) have also been submitted with the appeal and provide further clarification in relation to the reasons for refusal, so I am satisfied that they would not result in a fundamental change to the application.
3. The Council has had the opportunity to comment on these details as part of the appeal process and, as such, I am satisfied that no prejudice would occur were I to consider the information in my determination of the appeal. Nor would my acceptance of the additional information cause procedural unfairness as it does not give rise to the need for re-consultation of interested parties. I have proceeded on this basis.
4. During the late stages of this appeal the Council brought to my attention that it published a new 5 year housing land supply position statement. As this is of relevance to the appeal before me, and the appellant has been given the opportunity to comment on this matter, I have accepted this late evidence and considered it, as well as any comments received, as a part of my assessment.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including its effect on protected trees; and
 - biodiversity.

Reasons

Character and appearance

6. East Riding comprises detached houses of various designs which are normally set back from the road. Mature boundary hedges and trees provide a leafy and attractive setting for dwellings and are prominent features within East Riding, thereby making a positive contribution to the visual quality of the road and verdant character of the area.
7. The appeal site comprises an area of land which is part of the garden of No 3 East Riding. There is a substantial number of trees within the site which are covered by a Woodland Tree Preservation Order (TPO). Given its tree coverage, the site makes an important contribution to the natural environment and to the pleasant character of the road.
8. The proposed development would introduce new residential built form within the site with the associated loss of a significant number of trees. The Arboricultural Impact Assessment Report advises that all trees proposed to be removed are category C trees, most of them with at least 10+ years of life expectancy, with some having at least 20+ years.
9. Even though most of the trees that would be lost cannot be easily seen due to their location, they have value as a part of the collective unit. As such, regardless of their individual merit and condition, or of the outcome of any tree works application, their loss would weaken the visual quality of the green infrastructure within the site as a whole, and harm the character of the area.
10. The Proposed Site Ecology Plan shows that ten additional trees would be provided within the site as part of the proposed development. However, a substantial amount of green infrastructure would be lost through the development and, additionally, any replacement planting would take time to reach maturity and make a similar contribution to the street scene. As such, I am not persuaded that the additional planting would successfully mitigate for the tree loss associated with the proposal.
11. The appellant asserts that the woodland designation is incorrectly applied, as this classification is inappropriate for use in gardens. However, the TPO is in place and therefore this is not a matter for my consideration.
12. The appeal proposal would therefore be harmful to the character and appearance of the area. Given the scale of the loss of protected trees and the contribution which they make to the area, the magnitude of harm would be significant. The proposal would therefore conflict with Policies DES3, DES4 and HOU2 of the East Herts District Plan 2018 (DP). Collectively, these policies seek to protect existing landscape features of value, retain existing site features such as mature trees and support a high standard of layout to reflect and promote local distinctiveness. Furthermore, the proposal would be contrary to the Framework, where it supports development that is sympathetic to local character and seeks to conserve the natural environment.

Biodiversity

13. The PEA concludes that there are no ecological features that would preclude the proposed development and provides a number of recommendations to improve the ecological value of the site, as well as a precautionary approach to

be taken during construction. The BNG assessment sets out that the proposal would generate a net gain of area-based habitat units and of linear-based habitat units.

14. There is no evidence before me to contradict the findings of these reports and, as such, the weight of the evidence leans in the direction of the appellant. On this basis, the proposal would not have a harmful effect on biodiversity, in accordance with DP Policy NE3. This policy supports development that enhances biodiversity.

Planning Balance and Conclusion

15. The proposal would be acceptable in relation to other matters, including living conditions of the nearest neighbours. However, these are neutral factors that neither weigh for nor against the development.
16. As set out above, the proposal would be harmful to the character and appearance of the area given the scale of the loss of protected trees and the contribution which they make to the area. The magnitude of harm would be significant.
17. The Council can currently demonstrate a 5 year housing land supply of deliverable housing sites, which is not disputed by the appellant. Even so, the proposed development would contribute to meeting the Council's identified housing need and the Framework's objectives of boosting the supply of housing. The site is located near bus stops that serve larger settlements capable of providing access to services and facilities. The appeal site is small, so it could be built out relatively quickly. Ecological enhancements would be delivered and there would be some economic benefits accrued from the construction process, as well as longer term expenditure in the local economy. However, given that the scheme is for a single dwelling, these benefits attract limited weight in favour of the proposal and do not outweigh the harm that I have identified.
18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR