



Appeal Decision

Site visit made on 19 June 2024

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/J1535/W/23/3329643

4 Kensington Park, Oak Hill Road, Stapleford Abbots, Romford, Essex RM4 1AF

- 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 Mrs Kelly Stokes (nee Dockerill) against the decision of Epping Forest District Council.
 - The application Ref is EPF/0129/23.
 - The development proposed is single infill detached dwelling in the garden of 4 Kensington Park.
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Decision

1. The appeal is allowed and planning permission is granted for single infill detached dwelling in the garden of 4 Kensington Park at 4 Kensington Park, Oak Hill Road, Stapleford Abbots, Romford, Essex RM4 1AF in accordance with the terms of the application, Ref EPF/0129/23, subject to the conditions in the attached schedule.

Preliminary Matters

2. An amended existing site location and block plan (drawing no 100 rev C) was submitted as part of the appeal. The Council is unable to confirm it has considered this plan. In any event, the difference in the plan reflected changes unrelated to this appeal. In the interests of fairness, I have therefore considered the appeal on the basis of the originally submitted drawing no 100 rev B.
3. At my request, the appellant provided updated elevation drawings of the proposed dwellings, removed of features such as landscaping which obscured part of the elevations. There would be no prejudice to any party from my considering these drawings as part of the appeal and I have made my decision on the basis of these plans.
4. The proposed woodland area is shown outlined in green on drawing no 100 rev B. The appellant has confirmed this is to distinguish this from the site of the proposed dwelling and the other land within the appellant's control. They have also demonstrated that this land lies within their ownership. I am satisfied I can take this land and the works proposed on it into account when considering this proposal.
5. The appellant has provided a final signed Unilateral Undertaking (UU) dated 23 February 2024 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). This secures a contribution towards the mitigation of air pollution. I will return to this in due course.

Main Issues

6. The main issues in this appeal are:

- whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
- the integrity of the Epping Forest Special Area of Conservation (SAC).

Reasons

Whether Inappropriate Development

7. The Framework identifies at paragraph 142 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework confirms that new buildings are inappropriate in the Green Belt unless it is one of the exceptions listed. Epping Forest District Local Plan 2011-2033 (March 2023) (LP) Policy DM4 is consistent with the Framework in these respects.
8. LP Policy DM4C.(v) allows for limited infilling in rural communities. It is consistent with the exception set out in paragraph 154 e) of the Framework. It is not in dispute that the site lies within a rural community and I have no reason to find otherwise.
9. Paragraph 4.30 of the supporting text provides advice on the interpretation of LP Policy DM4 and is clear that the policy does not contain specific rules for development in the Green Belt. However, it does confirm that infilling would include the infilling of small gaps within built development.
10. The appeal site comprises land to the side of 4 Kensington Park. There is a mature landscaped boundary to surrounding countryside to two sides, one which is passed by a footpath. Opposite, a new dwelling was under construction and a further dwelling has an extant planning permission. Given the very clear boundary provided by the landscaping, and the introduction of development opposite the site, I am satisfied that the appeal site constitutes a small gap within the built development of this rural community. It therefore can be considered infilling for the purposes of LP Policy DM4.
11. Paragraph 4.30 of the LP further advises that limited infilling should be appropriate to the scale of the locality. The proposal is for a single dwelling at the end of a residential cul-de-sac. I am satisfied this proposal constitutes limited infilling.
12. I therefore conclude the proposal would not be inappropriate development in the Green Belt. It would be in accordance with LP Policy DM4 and the exemption set out in paragraph 154 e) of the Framework.

Integrity of the Epping Forest SAC

13. A significant proportion of the Epping Forest SAC lies within the administrative area of the Council. The SAC comprises wood-pasture with habitats of high nature conservation value including ancient semi-natural woodland, old grassland plains, wet and dry heathland and scattered wetland. The woodland

represents one of the largest continuous semi-natural blocks in the country, characterised by groves of over-mature pollards. The plains contain a variety of unimproved acid grasslands uncommon elsewhere in Essex and the London area. The Forest supports a nationally outstanding assemblage of invertebrates, holds major amphibian interest and has an exceptional breeding bird community.

14. The SAC is designated for three Annex I habitats (Northern Atlantic wet heaths, European dry heaths, and Atlantic acidophilous beech forests), as well as one Annex II species (Stag Beetle). The conservation objectives of the SAC include ensuring that the integrity of the site is maintained or restored as appropriate and ensuring that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features and Species.
15. The SAC and its qualifying features are at risk from recreational disturbance which can give rise to a range of effects including eutrophication, damage and disturbance to flora and fauna, harvesting of fauna and spread of disease and alien plants. An increase in recreational disturbance arises from development within 6.2km of the SAC. As the site lies beyond this, the proposed development would not result in an increase in recreational disturbance.
16. The SAC and its qualifying features are also at risk from increases in oxides of nitrogen, ammonia and nitrogen deposition, primarily from vehicular traffic. The proposed development would, in combination with other residential development, have a likely significant effect on the integrity of the SAC as a result of the increased vehicular traffic which would give rise to the above effects on air quality. In these circumstances, the Habitats Regulations require me to undertake an Appropriate Assessment (AA) of the implications of the proposed development for the SAC in view of its conservation objectives before deciding to grant permission.
17. Strategic mitigation measures to address the above are set out in the Air Pollution Mitigation Strategy (APMS) which sets out a tariff based contribution towards its delivery. A completed UU has been submitted by the appellant and would provide a financial contribution to mitigate air pollution in accordance with the APMS.
18. The APMS also recommends that electric vehicle charging capacity and access to high speed broadband should be secured. These matters can be appropriately addressed through the imposition of conditions.
19. Natural England, in its role as the Statutory Nature Conservation Body, has confirmed that with these matters secured prior to the commencement of the development, the potential adverse effects that would arise from the development would be suitably mitigated.
20. I am satisfied that the above financial contribution is necessary to make the proposed development acceptable in planning terms. The obligation would contribute to an established mitigation scheme. Given the location of the appeal site relative to the SAC, the contribution is directly related to the appeal scheme. As it relates to a standard charge based on the residential development proposed, I consider it to be fairly and reasonably related to the proposal in scale and kind. For these reasons, I am satisfied that the planning obligation would meet the requirements of Regulation 122 of The Community

Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) and paragraph 56 of the Framework.

21. A monitoring contribution of £16.75, equivalent to 5% of the total contribution is also proposed. Regulation 122 of the CIL Regulations allows for a contribution to be secured towards the costs of monitoring and reporting provided the sum to be paid fairly and reasonably relates in scale and kind to the development and does not exceed the authority's estimate of its cost of monitoring the development. I have no reason to conclude that the monitoring contribution secured through the UU would not comply with these tests.
22. I am satisfied that with the proposed mitigation measures in place, secured through the planning obligation and the imposition of conditions, the potential adverse effects of the development would be adequately mitigated, respecting the integrity of the Epping Forest SAC. The development would therefore comply with the Habitats Regulations. It would also be in accordance with LP Policy DM2 which requires all relevant development proposals to have no adverse effect on the site integrity of the Epping Forest SAC.

Other Matters

23. As I have found the proposal would be not inappropriate development in the Green Belt in accordance with LP Policy DM4C.(v), there is no need for me to consider if the site constitutes previously developed land.
24. The Council have confirmed that updated Housing Delivery Test results have been published, which the appellant disputes. However, as I have found that the development would be acceptable, the provisions of paragraph 11 c) of the Framework apply and there is no need for me to consider this matter further.
25. The proposed dwelling would be sat in a plot which would be commensurate with its size and would provide substantial private amenity space for future occupiers. An appropriate private garden area to 4 Kensington Gardens would also be retained. These would be broadly similar to plot sizes along Kensington Gardens and would not result in development appearing cramped or uncharacteristic.
26. The fact development has come forward along the road in an incremental fashion is not a reason in and of itself to dismiss this appeal. I have not been directed to any policy requirement within the LP that would require the provision of affordable housing. While the appellant's evidence does refer to the proposal being self-build and affordable housing, there is no mechanism before me to secure either. Similarly, while the proposal does show the provision of a woodland, I have not been directed to any policy in the LP that would require this proposal to make a contribution towards the provision of public open space. In any event, I have found the proposal acceptable without the need for additional benefits. The personal circumstances of the appellant, developer and agent are not material to my decision which has been made on the individual planning merits of the case.

Conditions

27. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the Framework and I have made amendments to some of them for consistency and clarity purposes. In the interests of certainty, I have imposed conditions

stipulating the timescale for the commencement of works and the approved plans. I have removed a reference requiring the development to be retained as per the approved plans as this is not justified. Details of materials were included in the design and access statement and there is no evidence before me as to why these would not be acceptable in this location. A condition ensuring their use is reasonable and necessary in the interests of the satisfactory appearance of the proposal. It is reasonable and necessary to ensure that appropriate provision for surface water drainage is made and retained.

28. The submitted landscape drawing does not show all of the site. It is also not clear that the effect of the proposed 2m boundary wall has been taken into account when preparing the tree protection plan. Given the importance of the site boundary in reaching my conclusion that the proposal is not inappropriate development in the Green Belt, I consider it to be reasonable, necessary, relevant to planning and the development to be permitted for further details to be submitted. For the same reason, I consider it necessary that these be pre-commencement which the appellant has agreed to in writing.
29. It is a requirement of the LP that water consumption be limited to 110 litres or less per person per day, therefore the condition is reasonable and necessary. I have amended the condition to require the details of the measures to be approved by the local planning authority to ensure that the condition is enforceable and to require their retention to ensure the measures are effective.
30. The provision of electric vehicle charging facilities and broadband are reasonable and necessary to mitigate the likely significant effects of the development on the integrity of the SAC. As such, it is necessary that the approved measures are retained.
31. The Council's ground and environmental services officer suggested the imposition of an unexpected contamination condition. Given the previous commercial uses in the surrounding area and the sensitive nature of the end use, I consider it reasonable and necessary for such a condition to be imposed.

Conclusion

32. For the reasons given above the appeal should be allowed.

J Downs

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 the following approved plans except insofar as they relate to the retaining boundary wall for which no permission is granted: 100 Rev B, 101 Rev B, 201 Rev A, and 303.
- 3) The development shall be carried out in accordance with the materials schedule contained within the Design, Access and Planning Statement Revision B.
- 4) The development hereby approved shall be carried out in accordance with the surface water drainage plan drawing no 105 and the approved drainage measures shall be thereafter retained.
- 5) Before the development commences, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, and identify those to be retained. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Before the development commences, details of tree protection measures shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must include a methodology for development including arboricultural supervision and demonstrate that any proposed boundary treatment would not have an adverse effect on the health of any trees not within the site.
- 7) Prior to any above ground works taking place, a scheme setting out measures to ensure a water efficiency standard of 110 litres (or less) per person per day shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the approved measures thereafter retained.
- 8) Prior to first occupation of the development hereby approved, one electric vehicle charging point shall be installed and retained thereafter for use by the occupants of the dwelling.
- 9) Prior to first occupation, the dwelling shall be provided with the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service. Such connection, or alternative equivalent, shall be thereafter retained.
- 10) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.