



Appeal Decision

Site visit made on 7 January 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2020

Appeal Ref: APP/J1535/W/19/3238567

46 Stradbroke Drive, Chigwell IG7 5QZ

- 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 Robert Davis, Imperial Developments against the decision of Epping Forest District Council.
 - The application Ref EPF/1025/19, dated 11 April 2019, was refused by notice dated 31 July 2019.
 - The development proposed is described as 'sub-division of the second floor flat to 2 flats of extant decision application ref: EPF/0973/17 raising number of flats from 5 to 6'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Robert Davis, Imperial Developments against Epping Forest District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Planning permission has previously been given under application reference EPF/0973/17 for development described as 'demolition of house at 46 Stradbroke Drive and the erection of a new building accommodating five flats in accordance with conditions of planning permission EPF/2987/15'.
4. A subsequent application (reference EPF/0044/19) was made to vary this permission and was described as 'application for Non-Material Amendment to EPF/0973/17 for changes to openings & reduction in projection of the front entrance portico with subtle changes to brick & stone'. However, the appellant indicates that there were also changes to the layout of the basement level and has provided a copy of drawing reference 17.120.02 dated 22 January 2018 illustrating these changes and which is listed on the decision approving the application.
5. The Council altered the description of development given on the application form and which I have used in the banner heading above to 'proposed sub-division of the second floor flat to 2 flats, revised layout of basement and revised parking layout. (Amendment to decision reference EPF/0973/17. Number of flats would be increased from 5 to 6. *AMENDED DESCRIPTION* [sic]. The appellant's evidence confirms that a change is proposed to the basement layout from that approved under application reference EPF/0973/17

and amended by application reference EPF/0044/19 relating to the relocation of bin storage, and I have determined the appeal on that basis.

6. As part of the appeal submission, the appellant has provided an amended site layout plan which would alter the layout of parking spaces to the front of the proposed development. The alteration would result in a reduction in the number of spaces shown. If I were to determine the appeal on the basis of this plan, it is possible that the interests of parties who might wish to comment on this change would be prejudiced. I have therefore determined the appeal according to the plans on which the Council based its decision.
7. Finally, the effect of the proposed development on the Epping Forest Special Area of Conservation (SAC) did not form a reason for the Council's refusal of the application. However, the Council's evidence refers to policies DM2 and DM22 within the emerging Local Plan Submission Version 2017 (LPSV) and advises that these policies were not relevant at the time of the determination of the application but are now deemed to be a consideration and indicate that permission should be refused.
8. I note that the LPSV is yet to be adopted, and in their evidence, the Council advise that there are unresolved objections to the plan. It is therefore subject to change and while I have not been made aware of the specific nature of unresolved objections, this limits the weight that I afford these policies. Notwithstanding this, Epping Forest SAC is protected as a European Site of Nature Conservation Importance. It is therefore subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 which confer a duty to consider whether a proposed development may have a significant effect on the conservation objectives of such protected sites. The appellant has had an opportunity to respond to the Council's evidence on the effect of the proposal on the SAC, and I am therefore satisfied that no prejudice would occur as a result of me taking this matter into account within my decision.

Main Issues

9. Having considered all of the evidence before me, including the representations of third parties, I consider that the main issues in this appeal are:
 - i) the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and disturbance;
 - ii) whether or not the proposed development would make adequate provision for parking; and
 - iii) the effect of the proposed development on the integrity of the Epping Forest SAC.

Reasons

Living Conditions

10. The proposed development would increase the number of flats within the building previously permitted on the site¹ from 5 to 6. This would be through a change to the second floor level where the proposal would alter the number of flats from one to 2 and would increase the total number of bedrooms at this level from 3 to 4.

¹ Application reference EPF/0973/17 and amended by application reference EPF/0044/19

11. As approved, the layout of the second floor flat included 2 large bedrooms, a third 'live-in bedroom', and generous living space. The proposal would create an additional dwelling, but each of the 2 flats now proposed would be smaller with 2 bedrooms and so I am not convinced there would be a substantial increase overall in the intensity of activity associated with this change.
12. In any event, beyond general assertions of an uplift in comings and goings, parking and visitors to the site, no substantive evidence has been provided to show how an increase in activity would cause harm to neighbouring occupiers through noise or disturbance.
13. Provision for parking within the frontage of the appeal site would be limited in scale and set away from the boundaries with neighbours. Although the access to the basement level parking would be close to the boundary with 48-52 Stradbroke Drive, there would be fewer spaces within the basement level than originally approved², reducing likely movements here. Furthermore, the site would remain a residential use in a residential area and noting the spacious plots which are typical to dwellings on Stradbroke Drive with properties set back from the street, even if there were an increase in comings and goings to the site, on-street parking, or occupation and use of the site including the garden area and refuse store, this would not result in any significant difference to the impact of the development.
14. Taking all of these factors into account, I am satisfied that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupiers through noise or disturbance. I am similarly not persuaded that activity likely to be associated with 6 flats on the site rather than 5 would be fundamentally different so as to cause harm to the character or appearance of the area.
15. Interested parties have raised additional concerns regarding the increased scale of the building and overlooking but there would be no external changes to the building from that previously approved. I accept that the development would provide for one additional dwelling at second floor level and there would be changes to the rooms served by the windows at this level. However, given the relationship of the site with nearby buildings I am satisfied that this would not cause harmful overlooking or a loss of privacy for occupiers of neighbouring dwellings.
16. I therefore conclude on this main issue that the development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring dwellings, including with regard to noise and disturbance. Accordingly, I find no conflict with Policy DBE2 of the Local Plan with Alterations 2006 (LP). This policy seeks to avoid detrimental effects on neighbouring properties and in this regard is consistent with paragraph 127 of the National Planning Policy Framework (the Framework). I also find no conflict with Policy DM 9 of the emerging LPSV which includes, amongst other things, a requirement that development takes account of the privacy and amenity of neighbours, but as the LPSV is not an adopted part of the development plan and is subject to change, I afford this policy less weight.

² Application reference EPF/0973/17 prior to amendment by application reference EPF/0044/19

Parking Provision

17. Policy T14 of the LP seeks to ensure adequate and appropriate car parking for development. The main parties have referred to guidance within the 'Essex County Council's 'Parking Standards Design and Good Practice 2009' (PSDGP) which indicates a minimum requirement of 2 parking spaces per dwelling with 2 or more bedrooms plus 0.25 visitor/unallocated spaces per dwelling to be rounded up to the nearest whole number. This would generate a requirement for 14 spaces to serve the 6 two-bedroom dwellings now proposed on the site.
18. The development includes 15 spaces on the site; 11 spaces within the basement level and 4 to the front of the building. This would exceed the minimum requirement within PSDGP, but the Council state that parking bays would fall below size standards within the PSDGP and refer to desired dimensions for spaces of 5.5m by 2.9m. However, it is not clear from the Council's evidence whether this concern relates to some or to all of the proposed spaces.
19. The appellant has advised that the 11 spaces within the basement level are a minimum of 5m by 2.5m and that this meets the minimum bay size for cars within the PSDGP. I acknowledge that this would be below the preferred dimensions outlined by the PSDGP and concerns have been raised by interested parties over the use of these spaces. However, the appellant's evidence indicates that the arrangement of the parking spaces within the basement level has previously been approved under application EPF/0044/19. The Council have not disputed that this layout could be implemented on the site, and from the information before me there is no reason to find that there has been any change which means that these spaces would no longer be usable or would not continue to contribute towards meeting the requirement for parking.
20. The parking proposed to the front of the building comprises 3 spaces to the side of the building entrance closest to 44 Stradbroke Drive and a single space to the other side of the entrance. Given the layout of the frontage and lack of any obstruction to 3 of the sides of the single space, I see no reason that this bay would be unusable or would fail to contribute towards meeting the requirement for parking on the site.
21. The appellant states that the 3 spaces closest to 44 Stradbroke Drive would measure 2.4m by 5m. This would be below the minimum dimensions sought by the PSDGP. There would be no obstruction to the outer edges of the bank of spaces or to their front, although I acknowledge that the central space would be more constrained and overall I consider it is unlikely that it would be possible to comfortably accommodate parking for 3 larger vehicles within this area. Nevertheless, I am satisfied that there would be capacity for at least 2 vehicles here.
22. Together with the single space to the other side of the entrance and the 11 basement level spaces there would therefore be at least 14 spaces on the site which would meet the number of spaces required by the PSDGP. While I note that there are no parking restrictions on Stradbroke Drive, Glenside or Bracken Drive, I therefore have no cause to find that the development would result in displacement parking within the surrounding area. Furthermore, although I note the width of Stradbroke Drive and the location of the appeal site close to the junction with Glenside, there is little evidence as to how parking on the street could have a harmful effect on the character or appearance of the area,

the living conditions of neighbouring occupiers, highway safety or the flow of traffic and at my visit I did not see high levels of on-street parking or other indications of a clear parking problem.

23. For all of these reasons, I conclude on this main issue that the proposed development would provide adequate parking and I find no conflict with Policy T14 of the LP.

Epping Forest SAC

24. As highlighted within the Procedural Matters above, Epping Forest SAC is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations impose a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the framework of an Appropriate Assessment (AA). This responsibility would fall to me as the competent authority, and I note the advice within the Planning Practice Guidance 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.
25. The designation of Epping Forest SAC reflects the presence of 3 qualifying habitats (Atlantic Beech forests on acid soils, European dry heaths and Northern Atlantic wet heaths with cross-leaved heath) as well as one qualifying species (Stag beetle). The conservation objectives of the SAC are to ensure that the integrity of the site is maintained or restored and that the site contributes 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.
26. From the information before me, the SAC is vulnerable to pressure from increased levels of visitors using the Forest for recreation, as well as from air pollution generated by increased motor vehicle use affecting the health of habitats and flora species. The appellant does not dispute that the proposed development would have a recreational impact on the SAC, but disagrees that there would be an impact on air quality. In support of this, the appellant suggests that the appeal proposal would result in similar vehicle movements over the development already permitted on the site.
27. I have found that activity associated with an additional dwelling on the site would not cause harm to the living conditions of neighbouring occupiers, but the development would nevertheless result in a gain of one dwelling on the site with some additional vehicular movements and recreational demand likely to be associated with its occupation by an additional, independent, household. Although I have also found that parking provision would be adequate in accordance with standards, this would not prevent either additional ownership or use of motor vehicles by future occupiers of the development.
28. Although the proposal would only create one additional dwelling, on the basis of the evidence before me, I cannot be certain that there would not be associated additional vehicle movements, or increased recreational activity arising from the development with a resulting pressure on the SAC, particularly

in combination with other plans and projects within the area. While any increases may be small, in exercising my duty to protect the European Site, I must adopt a precautionary approach. In this context, I find that the development would be likely to result in significant adverse effects on the flora and fauna within the SAC and its overall integrity.

29. The appellant does not dispute the need to mitigate the effect of the proposal on the SAC through recreation impacts and has provided a Unilateral Undertaking which provides for a financial contribution towards measures set out within the Council's adopted 'Interim Approach to Managing Recreational Pressure on the Epping Forest Special Area of Conservation'. This is an approach agreed between the Council and Natural England. However, there is currently no agreed approach to mitigate or avoid harm to the SAC through air quality impacts.
30. In the absence of appropriate mitigation for air quality impacts arising from the proposal, I can only conclude that the proposed development would result in significant adverse effects to the Epping Forest SAC that would harm its integrity. This would conflict with the requirements of the Regulations and the Framework's objectives for the protection of biodiversity and the conservation of the natural environment. While I also note that the Council have referred to Policies DM 2 and DM 22 of the emerging LPSV which seek to ensure that adverse impacts on the SAC do not occur as a consequence of recreational impacts or air pollution, the LPSV is not yet an adopted part of the development plan and is subject to change. This limits the weight that I afford these policies.

Other Matters

31. I acknowledge the strength of feeling of local residents and I have had regard to matters raised by third parties including the effect of the proposal on the character of the street, the capacity of local services and impacts during the construction period. However, none of the matters raised either individually or collectively alter my conclusions on the main issues.

Conclusion

32. Notwithstanding my findings that the development would not cause harm to the living conditions of neighbouring occupiers and that parking provision would be adequate, I conclude that the proposal would lead to significant harm to the integrity of the Epping Forest SAC. This is a matter of overriding concern and for the reasons given above I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR