
Appeal Decision

Site visit made on 21 February 2019

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 6 March 2019

Appeal Ref: APP/J1535/W/18/3204120

18 Russell Road, Buckhurst Hill IG9 5QJ

- 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 John Wasiak against the decision of Epping Forest District Council.
 - The application Ref EPF/0307/18, dated 2 February 2018, was refused by notice dated 18 April 2018.
 - The development proposed is construction of three dwellings (Use Class C3) with associated landscaping, car parking and alterations to access arrangements from Russell Road. Revised application of EPF/0793/17.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was submitted an updated and revised National Planning Policy Framework February 2019 (the Framework) and the 2018 Housing Delivery test Results (the HDT) have been published. I have taken these into account in considering the appeal.
3. The Epping Forest District Local Plan (Submission Version) 2017 (the emerging LP) is at Inquiry Stage. In accordance with the Framework appropriate weight can be given to its Policies depending on the stage of preparation; the extent of unresolved objections and the degree of consistency with the Framework.
4. Committee Members refused the planning application against the recommendation of the Council Officers. I have exercised my own judgement in respect of the planning merits of the proposal.

Application for Costs

5. An application for costs was made by Mr John Wasiak against Epping Forest District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are: whether or not satisfactory vehicular access to the proposed dwellings would be provided; and the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site is within a residential area with good access to services and facilities. There would be no objection in principle to residential development provided planning policies and other material considerations would be satisfied. The appeal site is part of the garden of No 18 Russell Drive, the host property, an existing house with a garage and driveway accessed from Russell Drive.

Vehicular access

8. Vehicular access to the proposed dwellings would be along the existing driveway. This would be re-modelled slightly and replacement parking spaces would be provided adjacent to it for use by occupiers of No 18. The existing garage doors would be replaced and vehicles would pass through a new opening in the rear wall of the garage onto a shared private access. The new rear wall opening would be some 2.9m wide and would be off-set to one side of the front gates. A separate pedestrian access would be provided between the garage and No 20 Russell Drive.
9. Concerns have been raised about the dimensions of the garage; its capacity to accommodate the likely vehicle usage and the resultant effects of traffic and parking on Russell Drive. Although more detailed survey drawings with dimensions would have been useful I was able to assess the space available on the driveway and in the garage during my site visit.
10. Due to the solid side walls of the garage; the pillars to either side of the front gates; the wall returns at the rear of the garage; the off-set of the new opening to the rear; and the inward opening gates I consider that visibility for drivers of vehicles would be very restricted. Moreover, as indicated on Plan Ref 913-DG-XX01 Rev A, awkward manoeuvres would be required for two vehicles to pass inside the relatively limited space within the garage.
11. The gates are some 4m wide and the plan indicates the driveway in front would be of a similar width. There would be brick planters on the driveway to either side of the gates to address site level differences.
12. It seems highly probable that drivers would position their vehicles some distance from the edges of the driveway/gates when exiting or entering the site. Therefore there would be a need for considerable manoeuvring with two vehicles being unable to safely and conveniently pass both on the driveway and in the garage due to the limited width available.
13. The height of the garage openings would restrict access by taller vehicles including delivery vans; ambulances; fire rescue appliances; and refuse collection vehicles. The proposals to address these matters include emergency access by code, force and trigger of an alarm; install sprinklers and install a private fire hydrant.
14. The combination of the above would result in access arrangements that would be inconvenient at best and potentially unsafe. I acknowledge that adequate parking and turning within the site beyond the front driveway and garage would be available and that the Highway Authority raised no objections on these grounds. However, it seems probable that the awkward access arrangements, as described above, would result in excessive manoeuvring, including in reverse gear, onto and off Russell Drive as residents and visitors seek to access three additional dwellings. This would be likely at best to lead to

congestion and inconvenience and could result in unsafe conditions for users of this unclassified road. This would reduce rather than improve the quality of life for occupiers of nearby houses. Moreover, whilst not determinative alone, the awkward access arrangements could deter future occupiers and their visitors from using the access, leading to additional on-street parking.

15. Accordingly I consider that satisfactory access would not be available for occupiers of the proposed three dwellings irrespective of whether alternative provision could be made to satisfy the fire and ambulance requirements.
16. The appellant has drawn to my attention other cases where shared drives pass beneath/through buildings. However, these accesses appear to be wider; and/or to have better visibility; and the buildings they serve generally front the road allowing for easy access for deliveries or emergencies. None of them lead me to any different conclusions in respect of the proposal before me.
17. For the reasons set out above I conclude that satisfactory access would not be provided for the proposed dwellings. Accordingly I find conflict with Policy ST4 of the Epping Forest District Local Plan 1998 and Alterations 2006 (the LP) which seeks to prevent traffic congestion and avoid detriment to highway safety. I also find conflict with Policy CP6(i) of the LP in so far as the awkward arrangements would reduce rather than improve the quality of life for occupiers of nearby houses.
18. There would also be conflict with Policies T1 A(v); C(ii) and C(iii) of the emerging LP which seek to promote safety; provide safe, suitable and convenient access for all; and provide on-site layouts that are compatible for all potential users with appropriate parking and servicing provision. I give significant weight to the emerging plan Policy T1 as the evidence indicates that there are no significant objections to it and it is consistent with Paragraph 108(b) of the Framework which seeks safe and suitable access to sites for all users.

Character and appearance

19. The eastern side of Russell Road is characterised by substantial detached and semi-detached dwellings set back from the road along a well-defined building line with some minor variations. The dwellings, although differing in architectural detailing and materials, are generally of traditional appearance. Most have pitched or hipped roofs. The appeal property is a large detached house with a distinctive design, materials and cladding. It would be largely unchanged as a result of the proposal and its value as a non-designated historic heritage asset would be unaffected.
20. Many dwellings have long rear gardens of differing proportions but this is not immediately apparent from the road due to the close spacing of the dwellings. The host property has an unusually large garden which extends behind four adjoining properties on Russell Road and adjoins a number of gardens on Roebuck Lane and Amberley Road. The garden contains a large number of mature trees and shrubs including a number of protected trees. Land levels fall from Russell Road so that the houses to the rear are at a lower level.
21. The proposed houses would be predominantly two storey linked by single storey sections so there would be a continuous building frontage of some 24m. In effect they would form a terrace which would be different in character to

that of the surrounding properties. It would present a more compressed appearance than is the case for detached houses with gaps between them but would not be significantly different to a pair of semi-detached houses sited two path widths apart from other houses as at Nos 6-12 (evens) Russell Road. In addition the overall density of the development would not be out of character although this would be achieved by the relatively large open areas of the site rather than by the positioning of the houses in relation to each other.

22. There would be gaps at first floor level but these would be relatively narrow and, due to the depth of the buildings, would provide little by way of spaciousness or visual setting between them. The flat roofs would be out of character with the predominantly pitched and hipped roofs of surrounding houses, although flat roofed extensions can be seen nearby and there are large blocks of apartments with flat roofs on Roebuck Avenue. With pitched/hipped roofs the overall mass of the proposed buildings would be much greater.
23. The proposed boxy design would be of completely different character to the surrounding properties. The houses would have cantilevered elements on the front elevations providing visual interest. Windows would be offset but would have a regular rhythm across the length of the building. The external surfaces would be constructed of materials including sedum roof, timber cladding and white render which would not reflect the building materials of most other houses in the locality. Nevertheless such a combination can have a pleasing appearance when used as part of a modern design.
24. The proposed design is uncompromisingly modern in appearance in terms of shape, form, fenestration and materials. However, the houses would be behind existing properties. Although they would contrast with the more traditional houses around they would be a counterpoint rather than competing with existing development, including the non-designated heritage asset at No 18, by being of their own time. They would be at a lower level than houses on Russell Drive and Roebuck Lane. They would be off set from the access and some distance from the street. Accordingly they would not appear prominent in views from the street even when the gates were open. Accordingly I conclude that the design, although out of keeping with the existing, would not be inappropriate on this particular site.
25. The generally leafy nature of the surroundings would be largely unaffected as the protected trees would be retained and only one tree would be removed. The frontage of the proposed houses would be dominated by parking and access areas with little by way of planted areas. However, this is not dissimilar to other properties on Russell Road where consecutive properties have hard surface frontages to provide parking with little planting. Similarly I observed a number of properties with bins stored at the front.
26. On balance I conclude that the proposed development would have an acceptable effect on the character and appearance of the area. I find some conflict with Policies DBE1 of the LP and DM9D of the emerging LP in that the proposal is of a different style to the surrounding properties. However, to my mind, as a discrete enclave of modern design that would not compete with the traditional buildings around, I conclude it would help create a sense of place, enhance the local urban environment and provide an attractive living space for future occupiers. Accordingly, I find compliance with Policies CP2(iv) and CP7 of

the LP and Policy DM9A of the emerging LP and the Framework in these respects.

Other Matters

27. Given the proximity of the appeal site to the Epping Forest Special Area of Conservation (SAC) and the interim advice from Natural England, the requirements of The Conservation of Habitats and Species Regulations 2017 (the Regulations) apply to this appeal. The Regulations require that special consideration is taken in respect of European sites (which include SACs). Planning permission can only be granted where it has been ascertained that the development will not adversely affect the integrity of the SAC.
28. The appellant has provided a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 to pay a financial contribution to mitigate against the harmful effects of development on recreational receptors in the SAC and to address any identified air quality issues. A condition to secure a Mitigation Strategy has also been proposed. Had I been minded to allow the appeal I would have required much more information in relation to these matters. However, as I have already concluded that the appeal will be dismissed for other reasons, the circumstances that would lead to a grant of permission are not present here. As a consequence, I do not need to undertake an Appropriate Assessment; give further regard to the subsequent tests specified in the Regulations; or look at the Unilateral Undertaking or proposed condition in detail.
29. I acknowledge that the proposal seeks to address concerns raised about previous proposals including a dismissed appeal on the same site Ref APP/J1353/W/17/3178707, including a reduction in numbers of dwellings from four to three. However, whilst taking this into account, I have reached my own decision on the planning merits of the proposal before me.

Planning Balance and conclusion

30. Paragraph 9 of the Framework explains that the economic, social and environmental objectives of sustainable development set out at Paragraph 8 should be delivered through the preparation and implementation of plans and the application of the Framework; they are not criteria against which each decision can or should be judged. The appellant indicates that the Council cannot demonstrate a five-year supply of deliverable housing land and the recently published HDT indicates Epping Forest District Council delivered 49% of its housing requirement over the past three years. In such circumstances the provision of additional housing should be afforded significant weight.
31. However, Footnote 6 to Paragraph 11 of the Framework, in combination with Paragraphs 176 and 177 of the Framework, indicate that the presumption in favour of sustainable development does not apply where a development requires an Appropriate Assessment under the Regulations. The balance to be struck is therefore a balance with no presumption in favour.
32. I have found that the development would not provide satisfactory access for all and that the proposed design would be at odds with the style and detailing of existing dwellings. In these respects there would be conflict with Policies ST4, CP6(i) and DBE1 of the LP and Policies T1 A(v); C(ii) and C(iii) and DM9D of the emerging LP.

33. On the other hand the proposal would make efficient use of land in an accessible location. It would boost the supply of much needed housing which attracts significant weight, although this is moderated by the modest contribution three dwellings would make. It would help create a sense of place; enhance the urban environment; and provide an attractive living space for future occupiers.
34. On balance I conclude that the benefits would not out-weigh the harm I have identified. In failing to comply with Policies ST4, CP6(i) and DBE1 of the LP the proposal cannot comply with the development plan taken as a whole. I find no other material considerations that would justify reaching a decision other than in accordance with the development plan.
35. For the reasons set out I conclude that the appeal should be dismissed.

S Harley

INSPECTOR