



Appeal Decision

Hearing Held on 14 March 2019

Site visit made on 14 March 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2019

Appeal Ref: APP/J1535/W/18/3202935

12A Alderton Close, Loughton, Essex IG10 3HQ

- 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 Ms Ramanjit Hare against the decision of Epping Forest District Council.
 - The application Ref EPF/1012/17, dated 6 April 2017, was refused by notice dated 21 March 2018.
 - The development proposed is described as a "residential redevelopment to provide 5 x 3 bed houses".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form refers to a "residential redevelopment of 5 x 3 bed houses". However, the application was amended during its determination by the Council and one dwelling was removed from the scheme. As a result, the description on the appeal form and decision notice refer to a "residential redevelopment to provide 4 x 3 bed houses." I have determined the appeal on the basis of the amended scheme.
3. The Council refer to policies within the Epping Forest Local Plan Submission Version 2017 (the LPSV) which was submitted for examination in September 2018. The Council stated at the Hearing that there remain objections to certain policies within the plan. Thus, while it forms a material consideration, I accord it limited weight in this appeal.
4. During the Hearing the appellant provided a signed and dated unilateral undertaking pursuant to section 106 of the Town and Country Planning Act 1990. This makes provision for a financial contribution towards the mitigation of the effects of the development on the Epping Forest Special Area of Conservation. I was also provided with three recent appeal decisions that all considered the impact of the development on the SAC, which are listed at the end of this decision. I was also provided with a copy of Policies CP6 and CP7 of the Epping Forest District Council Local Plan Alterations 2006 (the Local Plan) and the Habitats Regulations Assessment of Epping Forest District Council Local Plan January 2019.

Application for costs

5. At the Hearing an application for costs was made by Epping Forest District Council against Ms Ramanjit Hare. This application is the subject of a separate Decision.

Main Issues

6. The main issues are the effect of the development on:
 - The character and appearance of the area; and
 - The living conditions of adjoining occupiers with particular regard to privacy and outlook to No 12 Alderton Close.

Reasons

Character and Appearance

7. The appeal site lies at the end of a cul-de-sac and is accessed via a driveway that is located between Nos 12 and 14 Alderton Close. The site contains a detached two storey dwelling which benefits from a larger garden area than those properties sited at Alderton Close. The area is residential in character and contains a variety of style and size of dwellings throughout Loughton. Alderton Close itself comprises two storey semi-detached and terraced dwellings arranged in a linear manner with principal elevations that face onto the road. To the north of the appeal site are dwellings on Alderton Hill and to the south are dwellings on The Lindens. It is proposed to demolish the existing dwelling and replace it with a pair of semi-detached dwellings with parking areas to the front and private gardens to the rear.
8. The appeal site is an anomaly in that it occupies a position that is set between dwellings on The Lindens and Alderton Hill and visually the site has the appearance of a large detached dwelling set within relatively spacious grounds. From my visit I find the site to share a similar character to, and is read in the same context of, properties situated on Alderton Hill and The Lindens. This would accord with the findings of the Inspectors that considered two previous appeals¹ at the site. Although the appeal site is physically connected to Alderton Close, spatially it is more akin to the less dense form of development to the west which displays a more verdant and suburban character, to which the appeal site makes a positive contribution. Furthermore, the three blocks of terraces that form part of Alderton Close, which culminates in Nos 9 - 12 adjacent to the site and highlighted in the appellant's written statement, are much denser areas of development, in contrast to the appeal site which has a more open character and reflects the developments along Alderton Hill.
9. The proposal to erect four dwellings on the site would fail to respect the pattern of development to the west and would result in a constrained and incongruous form of development, quite out of keeping with the more open and spacious neighbouring land. The parking areas would create a large expanse of hardstanding to the front of the development which would fail to reflect or respect the grain of the area and would appear as a stark and hard form of development, out of keeping with the established suburban character of the area and would be clearly visible through the access and from properties that

¹ APP/J1535/A/05/1191756 and APP/J1535/A/07/2053494

surround the site. The proposal would result in a separate and distinct development that would appear cramped and contrived when viewed against the less dense form of development that surrounds it to the north, west and south.

10. Thus, the development would result in material harm to the character and appearance of the area. It would be in conflict with Policy CP2 (iv), CP7 and DBE6 of the Local Plan which seek, amongst other things, to safeguard and enhance the setting, character and townscape of the built environment, make the fullest use of existing urban area where the environmental quality of the existing area is maintained, and that car parking does not visually dominate the site.

Living Conditions

11. The appeal site lies to the side (east) of Nos 9 – 12 Alderton Close and to the rear (north) of properties on The Lindens. The proposed dwellings would effectively be sited behind the existing dwelling with its rear elevations closer to the properties along the Lindens. No windows are proposed in the side elevations and the windows in the first floor rear elevation would serve bedrooms. However, given the separation distance of some 25m from the rear elevation of properties on The Lindens, the development is unlikely to cause material harm in terms of overlooking.
12. Turning to 9 – 12 Alderton Close, the nearest property is No 12 which is sited to the west of the appeal site. The appellant has produced a drawing which depicts a line taken from the corner of No 12 which extends past the side elevation of unit 1, which would be closest to it. This line seeks to demonstrate that the development would not impact on the outlook afforded from the rear windows of No 12. From my own observations and given the separation distance from No 12, I have no reason to disagree with this assessment. Moreover, while No 12 also has a bedroom window on its side elevation facing the development, this room has a dual aspect and is also served by a window on the front elevation. In addition, the nearest dwelling of the development would be set some 4.5m from the shared boundary and is sufficient to ensure that the proposed dwellings would not appear excessively overbearing to the occupiers of No 12.
13. Thus, I do not consider that the living conditions of adjoining occupiers would be adversely affected by the development. As such, the proposal would not be in conflict with Policy DBE9 of the Local Plan which seeks, amongst other things, to ensure that developments do not result in excessive loss of amenity for adjoining properties.

Other Matters

14. The appeal site lies almost 1km from the edge of the Epping Forest Special Area of Conservation (SAC). Natural England (NE) has advised the Council that residential developments that are within 6.2km of the SAC are likely to have significant effects upon it through additional recreational use of the Forest and that increased traffic could also affect air quality. Consequently, I must consider whether the proposal would be likely to have a significant effect on the internationally important interest features of the site, either alone, or in combination with other plans or projects.

15. The appellant undertook an HRA² which identified that the proposed development has the potential to result in an increase in visitors to the SAC, which alone would be insignificant but in combination with other plans and projects, could result in significant recreational pressures on the SAC. On this particular matter, the Council provided a report that was presented to its Cabinet Office in October 2018³ which addressed, amongst other things, the approach to managing recreational impacts on the SAC and recommended that development contribute £352 per proposed dwelling. The appellant has provided a signed and dated Unilateral Undertaking making provision for the required contribution which the Council confirmed at the Hearing would be sufficient to mitigate against the recreational use of the SAC.
16. Turning to traffic movements arising from the development alone, these are also likely to be negligible and would not be significant in themselves. However, it is accepted that in combination with other plans and projects, the development would result in an overall increase in traffic which may result in a significant effect on the SAC as a result of air pollution. Consequently, an Appropriate Assessment (AA) would be required, which was undertaken by the appellant which identified that there is a "*predicted improvement in air quality by 2033 based on the air quality modelling undertaken for the HRA of Epping Forest's draft Local Plan*".
17. Consequently, the appellant concludes that there would be an improvement to air quality in overall terms and that in-combination development would not represent a real risk to the ability of other national or local measures to otherwise reduce background pollution levels, thereby undermining the restoration aims of the conservation objectives for the SAC. Moreover, traffic flows from the proposed development would be negligible and indistinguishable from background variations and on this basis, either alone or in combination with other plans or projects, the development would not adversely affect the integrity of the SAC and there is no requirement for mitigation or avoidance measures.
18. Although I acknowledge the findings of the appellant's HRA, as the appropriate authority, it is incumbent on me to carry out an AA should I be minded to approve the development. The advice from NE⁴, to which I give significant weight, is that it is going to be very difficult to identify suitable mitigation measures to minimise or remove any air quality impacts to enable a conclusion of no adverse effect on site integrity of the SAC to be reached at the individual planning application stage, until the updated LPSV HRA has been finalised. Moreover, while the appellant states that air quality is likely to improve and that in combination with other development, it would not lead to further deterioration of air quality, the final Mitigation Strategy to address air pollution on the SAC has not been completed and the Council is continuing to work on the LPSV and its Habitats Regulations Assessment⁵.
19. Nevertheless, the need for an AA, which must also include an up to date consultation response from NE as required by Regulation 63(3) of the Habitats Regulations 2017⁶, would only arise if I were otherwise minded to grant

² Report to Inform a Habitats Regulations Assessment (including Appropriate Assessment) dated February 2019

³ Epping Forest District Council Cabinet Meeting 18 October 2018 ref C-014-2018/19

⁴ Natural England letter dated 15 June 2018

⁵ Habitats Regulations Assessment of Epping Forest District Local Council Local Plan January 2019

⁶ The Conservation of Habitats and Species Regulations 2017

planning permission. As that is not the position I intend to reach, there is no requirement for me to consider this matter further.

20. There was local concern raised in relation to the potential effect of the proposed development on highway safety and parking in Alderton Close and the suitability of the access into the site for emergency vehicles. However, based on all of the evidence before me and the observations during my site visits, I am satisfied that any increase in traffic from the proposed development would not result in severe harm to highway safety. This is consistent with the conclusions of the Highway Authority who raised no objection in relation to highway safety and parking.

Conclusion

21. The site lies within a residential area whereby the principle of the development is acceptable, and would boost the supply of housing in the area. Furthermore, the design of the development is appropriate and would not harm the amenity of adjoining occupiers. However, neither these nor any other material considerations that have been advanced, override the harm to the character and appearance of the area that I have identified above.
22. For these reasons, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Simon Wallis MA Town Planning MRTPI	Director – Savills
Daniel Maughan BSc CIEEM	Aspect Ecology
Liz Shannon BA(Mod) MRUP, MRTPI	Savills
Mr Jas Hare	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Ian Ansell (Senior Planner) Epping Forest District Council

INTERESTED PERSONS:

Dr. Thanaa Kandil	8 The Lindens
Lauren Bayles	9 Alderton close
David Moody	11 Alderton Close
Rashmi Singh	12 Alderton Close
Amanda Hardy	14 Alderton Close
Adam Hardy	14 Alderton Close
Sylvia Squires	16 Alderton Close

DOCUMENTS

Appeal decision APP/J1535/W/18/3208222
Appeal decision APP/J1535/W/18/3204578
Appeal decision APP/J1535/W/18/3207801
Unilateral Undertaking dated 13 March 2019
Policies CP6 and CP7 of the Epping Forest District Council Local Plan
Alterations 2006
Habitats Regulations Assess of Epping Forest District Council Local Plan
January 2019