



Appeal Decision

Site visit made on 25 January 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/J1535/W/22/3293716

13-22 Brook Parade, Chigwell IG7 6PF

- 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 Geoffrey Gay - Conshurst Properties Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/2701/19, dated 7 November 2019, was refused by notice dated 5 January 2022.
 - The development proposed is the construction of an additional storey comprising 6 two-bedroom flats.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of an additional storey comprising of 6 two-bedroom flats at 12-23 Brook Parade, Chigwell, IG7 6PF in accordance with the terms of the application, Ref EPF/2701/19, dated 7 November 2019, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. Since the Council made its decision, and following the submission of this appeal, the Epping Forest District Local Plan 2011-2033 (LP) was adopted on 6 March 2023. The Council has confirmed that the previous references in its decision to policies of the 'Submitted Version Local Plan' (SVLP) should now be taken to mean the policies of the LP. Following the adoption of the LP the policies of the Local Plan and Alterations (2006) which were also referred to within the Council's decision have been superseded. As the adopted policies of the LP include modified versions of the previously referenced policies of the SVLP, I have provided the appellant with an opportunity to comment and have taken any comments received into consideration.

Main Issues

3. The main issues are the effect of the proposal on:
 - (i) the Epping Forest Special Area for Conservation (SAC);
 - (ii) the character and appearance of the area;
 - (iii) parking, public transport and service provision in the area.

Reasons

Epping Forest SAC

4. The evidence before me indicates that the site is located within the zone of influence (ZoI) for the Epping Forest SAC which is a European designated site. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects within the framework of an Appropriate Assessment (AA). This responsibility falls to me in the context of this appeal.
5. The designation of the Epping Forest SAC reflects the presence of 3 qualifying habitats (Atlantic Beech forests on acids soils, Northern Atlantic wet heaths with cross-leaved heath and European dry heaths) as well as one qualifying species (Stag beetle). The conservation objectives identified for the SAC include ensuring that the integrity of the site is maintained or restored. The site should also contribute 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.
6. The SAC and its qualifying features are at risk from increases in nitrogen oxide, ammonia and nitrogen deposition, largely emitted by vehicular traffic. Proposals for development in the ZoI have the potential to generate increases in traffic using roads in the vicinity of the SAC and therefore, either alone or in combination with other schemes, could adversely affect the SAC. Furthermore, an increase in residents could generate additional recreational activity within the SAC. The Council also identified these matters as being the pathways of impact to be assessed and I find no reason to disagree.
7. The proposal would result in an increase of 6 dwellings on the site. This increased occupation of the site would have the potential to have an adverse impact on the SAC in terms of any associated recreational pressure and in terms of air pollution as a result of a net increase in traffic. In combination with other development in the area, there is the potential that this would have a significant adverse effect on the SAC.
8. The mitigation measures to counter such impacts are set out in the following strategies adopted by the Council:
 - an Interim Air Pollution Mitigation Strategy (IAPMS),
 - an Interim Strategic Access Management and Monitoring Strategy (SAMMS) and
 - an Interim Green Infrastructure/Suitable Alternative Natural Greenspace Strategy (GI/SANGS Strategy).
9. The above strategies identify developer contributions which are designed to, collectively, fund the mitigation measures required to ensure that the in-combination impacts of new housing will not give rise to an adverse effect on the integrity of the European site. The developer contributions apply to new residential development on a net new dwelling basis.

10. With regards to SAMMS, the Council agreed at its Cabinet meeting on 11 April 2022 to adopt updated financial contributions attributable to new development in the district. This is based on an approach to apportioning SAMMS costs to individual local authorities, based upon the likely increase in visitor pressure from each local authority as a result of development through respective Local Plans.
11. Natural England (NE) have confirmed that the GI/SANG Strategy would not require mitigation for the appeal proposal. However, with regards to SAMMS, NE is supportive of the approach developed by the Council. In that regard NE has confirmed that the updated apportionment indicates that a financial contribution of £1,852.63 will be required for new dwellings within 3km distance of the SAC and that the appeal site falls within this distance. On this basis a total "recreation contribution" of £11,115.78 is applicable.
12. With regards to air quality, the IAPMS requirement for a mitigation contribution of £335 per dwelling. However, Policy DM22 of the LP requires that larger proposals or those that have the potential to affect air quality, will be required to undertake an air quality assessment that identifies the potential impact of the development, together with, where appropriate, contributions towards air quality monitoring.
13. In this regard, the appellant has provided an Epping Forest SAC Technical Note dated 3 August 2021 (EFSAC TN). NE is satisfied that the EFSAC TN's assessment of an uplift in six new dwellings satisfies the Habitats Regulations Assessment requirements. NE has confirmed that the air quality mitigation tariff for each of the six new dwellings, at £335 per dwelling (totalling £2,010.00) is appropriate together with the Essex County Council suggested highway conditions and that additional bespoke mitigation or monitoring is not necessary in this instance.
14. The appellant's Unilateral Undertaking (UU) dated 5 July 2023 includes provisions for the above recreation and air pollution contributions as well as a monitoring contribution of £206.10. NE is satisfied that these financial contributions are sufficient to mitigate potential adverse effects on the Epping Forest SAC. On this basis, NE has confirmed that it does not object to the proposal.
15. In addition, as part of my decision I have included the High Authority's suggested conditions requiring provision of a Residential Travel Information Pack and cycle parking together with a condition requiring a high-speed broadband connection all of which encourage sustainable travel practices. The Highways condition relating to parking restrictions on Brook Mews was suggested in the interests of highway safety and not to reduce travel by motor vehicles. That particular condition is not attached for the reasons set out under the third main issue and does not alter my conclusions in respect of the Epping Forest SAC.
16. I conclude, the contributions in the appellant's UU dated 5 July 2023 and the detailed conditions are sufficient to mitigate the effects of the proposal and will ensure that it would not have a significant adverse effect on the integrity of the Epping Forest SAC. Accordingly, the proposal complies with the requirements of Policies P7 (Chigwell), DM2 (Epping Forest SAC and the Lee Valley SPA) and DM22 (Air Quality) of the LP and the Habitats Regulations the Habitats

Regulations and Paragraph 180 of the National Planning Policy Framework (the Framework).

Character and appearance

17. 13 – 22 Brook Parade form part of a three-storey parade which includes commercial units at ground floor level and residential units within the upper floors. The building has a stepped roofline which corresponds with the slope of the street and has brick facades to its first and second-floor front elevations. The neighbouring building at Claremont Place is five storeys in height and a new development at No 185 Brook Parade is four storeys in height. The wider street scene also includes the four storey Dolphin Court which is situated on the opposite side of High Road and faces the appeal site.
18. Beyond the yards and gardens to the rear of the appeal building there is a row of single storey garages which are accessed from Brook Mews. The rear gardens of the mainly two-storey dwellings on Dickens Rise share boundaries with the opposite side of Brook Mews. Overall, there is variation in the design and height of buildings in the immediate area but the section of High Road and Brook Parade where the appeal site is situated includes buildings of more substantial height than the dwellings on nearby residential streets.
19. The proposal would incorporate a descending roof line and where it sits closest to Claremont Place, the top of the extension would sit lower than the roof of this adjacent building. The proposed units would be set back from the front elevation of the building and would align with the existing footprint of the upper floors on the rear elevation. A subdued colour palette is proposed to the external elevations including grey zinc facing materials. In the main, the windows would also be closely aligned with those on lower floors.
20. I acknowledge that the proposal only relates to roughly half of the existing parade. Even so, the wider building is of a substantial width and the other part of the building sits to the higher section of the street. These factors would ensure that the extended building would retain an acceptable balance and would acceptably integrate into the mixed architecture of the wider street scene.
21. Moreover, prior approval has previously been obtained in February 2021 for the construction of an additional storey comprising of 4 x 2-bedroom flats on the site¹. This extant planning permission on the site would have a very similar effect on the character and appearance of the area in terms of its height, form and architecture and would span much of the same section of roof. This is a fallback position to which I attach considerable weight and which further persuades me that the development would be acceptable.
22. I conclude, the development would have an acceptable affect on the character and appearance of the area. In that regard, the proposal would comply with the design and character requirements of Policies Policy SP2 (Place Shaping), and DM9 (High Quality Design) of the LP.

Parking, public transport and service provision

23. On street parking on Brook Parade is time limited for up to 2 hours with no return for 2 hours on Mondays – Saturdays between the hours of 09:30 and

¹ LPA Ref EPF/2967/20

18:30. Many of the local streets that are set back from the High Road frontage have unrestricted parking. This is also the case on Brook Mews, a narrow service road to the immediate rear of the appeal site. On my site visit, I observed that Brook Mews is poorly maintained and that indiscriminate parking takes place there. Several vehicles were mounted on the kerbside at the time of my visit. Even so, while my site visit only provided a snapshot of parking conditions in the area, there was parking capacity both in terms of restricted and unrestricted parking in close proximity to the site at that time.

24. Policy T1 of the LP seeks appropriate parking provision which mitigates any impact on on-street parking provision within the locality and that reduced parking, including car free, development in sustainable locations will be supported.
25. The proposal does not include additional parking facilities. Even so, the parking survey carried out in February 2020 indicates that the overnight parking stress levels in the area were low and that there were good levels of parking capacity available on-street in the vicinity of the site both in terms of restricted and unrestricted spaces on local streets. This is consistent with my own observations. Overnight spaces were also available on Brook Parade when the survey was undertaken. No detailed counter evidence has been provided to dispute this or to suggest that the situation has significantly changed since that time. The Highway Authority also confirmed that the parking survey provided is robust.
26. Without any evidence to the contrary, the above factors persuade me that parking demand arising from the development could be accommodated on local streets. There is also no objective evidence before me to suggest that the proposal would have an unacceptable impact on highway safety or that on-street parking would result in any significant inconvenience for users of the local highway network.
27. In addition, the site is sustainably located in close proximity to bus stops and Chigwell Station. These public transport options will provide occupiers of the development with alternative means of travel to car ownership and will further reduce the potential for the development to have any material effect on the local highway network.
28. While the Highway Authority is satisfied that there would be no detriment to highway safety, it observed that there would be the potential for increased parking along Brook Mews. It therefore suggests that a double yellow line be secured along the north west side of this road to prevent indiscriminate parking and to preserve access for existing properties and emergency vehicles. The Highway Authority's suggested condition indicates that the developer would need to be responsible for the implementation of a Traffic Regulation Order (TRO) to secure this and for all costs associated with the TRO legal processes and associated highway works.
29. However, such a condition would not be the suitable mechanism for securing a financial obligation. This is particularly the case in this instance given the associated costs have not been quantified. Therefore, it would not be reasonable to include a condition which relies on the developer covering an unspecified sum.

30. In any case, as outlined above, indiscriminate parking on Brook Mews already exists. Therefore, I am not persuaded that the proposal would exacerbate the existing situation on Brook Mews to such an extent that it would be reasonable to require the appellant to resolve it. Furthermore, the fallback scheme for 4 two-bedroomed flats at the site has the potential to have a similar effect, but as far as I am aware, does not place a similar expectation on the appellant.
31. There is no detailed evidence before me to demonstrate that local transport or other services in the area have insufficient capacity to absorb demand generated by the development whether it be considered alone or in combination with the 'nearby pending applications' referred to in the Council's decision. In the latter case, I am also not aware of the specific outcomes of other applications and have therefore considered the appeal on its own merits.
32. In the circumstances, and noting the comparable fallback position on the site, I am not persuaded that specific enhancements to off-site infrastructure or services could be substantiated in this particular instance. The Highway Authority's suggested condition requiring that the developer produces a Residential Travel Information Pack for sustainable transport could be made a requirement of planning permission and would include six one day travel vouchers for use on local public transport which would further encourage new residents to use sustainable methods of transport. The appellant has confirmed their agreement to such a condition. Therefore, the development would accord with the general thrust of the Council's policies and the Framework which are generally supportive of development which relies on sustainable modes of transport.
33. I conclude, the development would have an acceptable effect on parking, public transport and service provision. In these regards the development would generally comply with the parking, transport and infrastructure requirements and support for reduced parking in sustainable locations of Policies SP2 (Place Shaping), T1 (Sustainable Transport Choices and P7 (Chigwell) of the LP. For the same reasons the proposal would accord with the objectives in the Framework to ensure that development does not have an unacceptable impact on highway safety and promotes sustainable transport.

Other Matters

34. With regards to concerns raised by third-parties which are not addressed under the main issues, there is no objective evidence before me to demonstrate that the proposal would result in a loss of business for local shops resulting from associated traffic or demand for parking. There is also no clear evidence to suggest that there would be a significant impact on local infrastructure or that there would be material increases in pollution including in terms of noise or dust.
35. Any disruption for existing residential and commercial tenants and the wider community during the construction period would be likely to be short lived. A condition can be attached requiring details of a Construction Management Plan to help minimise any potential effects. The Council's Environmental Protection and Drainage Team made no comments to suggest there would be any drainage concerns and I find no reason to conclude differently. Connection to the existing sewer, any potential for fire safety issues and the stability of the host building are separate matters for the appellant to address through the building regulations.

36. There is no evidence before me to suggest that future occupiers of the proposal would not be provided with suitable living conditions or that the proposals would conflict with any specific accessibility or external amenity space requirements in the development plan.
37. In terms of neighbouring amenity, the position of the units at fourth-storey level together with the distances and angles to the main habitable windows and outdoor spaces serving neighbouring properties would be sufficient to retain suitable levels of privacy, outlook and light for neighbouring occupiers.
38. In terms of cycle and refuse storage provision, a 'Proposed Bike and Refuse' plan is before me which shows the provision of suitable facilities. A condition can be attached requiring that these facilities are provided prior to the first occupation of the development.
39. With regards to the condition of the highway on Brook Mews, there is nothing before me to demonstrate that the maintenance of this road is the sole responsibility of the appellant.
40. The Council did not refuse planning permission on any of the above grounds. Moreover, the effects of the proposal in relation to the above matters are likely to be comparable to those of the extant prior approval for 4 two-bedroomed flats on the site. These factors are also compelling in my overall finding that the proposal would be acceptable.

Conditions

41. No suggested conditions have been provided. I have therefore had regard to the conditions set out in the Council's Planning Committee report. I attach the standard timescale for implementation and an approved drawings condition in the interests of certainty.
42. In line with the Highway Authority's advice, I have included a condition requiring a Residential Travel Information Pack to be distributed to the first occupiers of the development in the interests of promoting sustainable travel options. This is further supplemented by a condition requiring the proposed cycle parking facilities to be implemented prior to the first occupation of the development. In the interests of conciseness, I have included a requirement to provide refuse facilities within the same condition.
43. Zinc facing materials are indicated on the approved plans. In order to ensure the full composition of external facing materials, including window frames, are of a high quality, I have included a condition requiring precise details to be submitted and agreed. A condition is also included requiring precise details of privacy screens on the proposed balconies in order to ensure suitable levels of privacy are provided for occupiers of the individual flats.
44. A condition requiring a strategy to facilitate super-fast broadband is reasonable in support of sustainability and reducing the need to travel and this consequently also has the potential to support improvements to air quality in line with the Council's commitments to protect the integrity of the Epping Forest SAC.
45. A condition requiring the provision of a Construction Management Plan is attached in order to ensure any impacts on existing properties and the surrounding area during the construction phase are minimised. I have included

a separate condition requiring tree protection measures to be put in place during development in line with the advice of the Council's Trees and Landscape officer.

46. In the interests of sustainability, I have included a condition requiring that water efficiency measures are incorporated into the development.

Conclusion

47. For the reasons given, the appeal is allowed.

M Russell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out strictly in accordance with the following approved plans: BP-1 (Block Plan), LP-1 (Location Plan), P-2 (Existing Ground Floor – Unchanged), P-3 (Existing First Floor – Unchanged), P-6 (Proposed Front and Rear Elevations), P-7 (Proposed Second Floor), P-8 (Proposed 3rd Floor), P-9 (Proposed Roof Plan), P-10 (Sections), P-12 (Proposed Street Elevation) and P-13A (Proposed Bike and Refuse).
- 3) Prior to first occupation of the development, a Residential Travel Information Pack (RTIP) which encourages occupiers of the development to travel by sustainable modes shall be produced by the developer in consultation with Essex County Council. The RTIP shall include six one-day travel vouchers for use with the relevant local public transport operator. The RTIP shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development. Once approved in writing the RTIP (including the one-day travel vouchers) shall be provided by the developer free of charge to the first occupiers of each flat hereby approved.
- 4) The cycle parking and refuse facilities shown on approved drawing No P-13A shall be provided prior to the first occupation of the development hereby approved and shall be retained for the lifetime of the development.
- 5) Prior to commencement of the development, precise details of the type and colours of the external materials to be used on the development shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing, the development shall be completed in full accordance with the approved details.
- 6) Prior to the first occupation of the flats hereby approved, precise details of privacy screens to be provided between adjoining balconies serving the flats hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The privacy screens shall have a minimum height of 1.7 metres. Once approved in writing, the privacy screens shall be provided prior to first occupation of the development and shall be retained thereafter.

- 7) Prior to first occupation of the development, precise details of a strategy to facilitate super-fast broadband for occupants of the development shall be submitted to and approved in writing by the Local Planning Authority. Once approved in writing, the development shall be carried out in accordance with the approved strategy unless otherwise agreed in writing by the Local Planning Authority.
- 8) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The CMS shall include precise details of:
 - i. Parking arrangements for the vehicles associated with site operatives and visitors;
 - ii. Arrangements for the loading and unloading of plant and materials;
 - iii. Storage areas for plant and materials used in the construction of the development;
 - iv. The erection and maintenance of security hoardings including any decorative displays;
 - v. Measures to control the emission of dust, dirt and detritus from vehicles during the construction process; and
 - vi. A scheme for recycling/disposing of waste resulting from demolition and construction works.

Once approved in writing, the development shall be carried out in full accordance with the approved CMS.

- 9) Prior to first occupation of the development, measures shall be incorporated within the development to ensure water efficiency standard of 110 litres or less per person per day.
- 10) The development shall be carried out in accordance with the tree protection measures and the methodology for development (including supervision) set out in the Arboricultural Impact Assessment Ref. 191203-1.0-13-22BP-AIA-LL_MS. This includes amongst other things that Construction Exclusion Zones around Root Protection Areas shall be in place prior to commencement of the development.