

Appeal Decision

Site visit made on 6 October 2016

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2016

Appeal Ref: APP/B5480/W/16/3153572
39 Ellis Avenue, Rainham, Essex RM13 9TU

- 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 J S Kalar against the decision of the Council of the London Borough of Havering.
 - The application Ref P1850.15, dated 10 December 2015, was refused by notice dated 5 May 2016.
 - The development proposed is described as 'single/two storey side extension to form a new dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for single/two storey side extension to form a new dwelling at 39 Ellis Avenue, Rainham, Essex RM13 9TU in accordance with the terms of the application, Ref P1850.15, dated 10 December 2015, and the plans submitted with it, subject to the conditions set out in the schedule to this decision letter.

Preliminary matter

2. The description of the development varies between the application form and the subsequent documents. I have used the description given on the appeal form, as it describes the development more accurately.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the surrounding area, and whether the proposal would make adequate provision for education infrastructure.

Reasons

Character and appearance

4. The appeal site is located within a predominantly residential area, and forms part of the garden of 39 Ellis Avenue. The proposal would add a side extension to the existing end-of-terrace property, and a new dwelling would be created by dividing part of the existing house and combining it with the proposed extension. The location is acceptable in principle for residential development.
 5. The proposed materials would reflect those of No 39, and the new windows would match the existing. In respect of the two storey element of the development, the eaves would run through at the same level as existing, and
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the roof form and pitch of the extension would mirror the existing roof. The development would thus keep in with the characteristics of the appeal property. The new single storey section to the rear would replicate closely the form and dimensions of the existing single storey element.

6. The property at No 39 would be extended to the south by approximately 1.95m, and a total additional footprint of approximately 21sqm would be created. The Council's concern focuses on the effect of extending the building line along Ellis Avenue, and encroaching further onto the building line of Wilfred Avenue. On my site visit, I observed that, particularly around the junction between Ellis Avenue, Wilfred Avenue and Palliser Drive, there is a variety of architectural styles, with a mixture of single and two storey dwellings. There are subtle differences in terms of the spatial relationships of the buildings to their plots, and to the street. This gives the area an informal appearance, and within that context, I do not consider that the modest extension to No 39 would have a harmful or overbearing effect on its surroundings. The majority of the triangular corner plot at No 39 would be retained, leaving sufficient openness at the junction so as not to harm it.
7. I conclude that the character and appearance of the surrounding area would be preserved by the proposal. It would therefore comply with Policy DC3 of the Havering Core Strategy and Development Control Policies Development Plan Document (DPD, 2008), which relates to the impact of housing design and layout, and DPD Policy DC61, insofar as it requires development to complement the amenity and character of the area.

Provision for education infrastructure

8. The Council requires financial contributions towards the provision of education infrastructure in accordance with DPD Policy DC72, and the Council's Planning Obligations Supplementary Planning Document (SPD, February 2013). The SPD states that a standard charge will apply to all forms of residential development, and to all proposals that would result in a net increase of one dwelling or more. In this case, the discounted standard charge of £6000 is required.
9. The Council has submitted detailed evidence to demonstrate the need for school places in the borough. The proposal would create a three bedroom dwelling which could accommodate a family unit, thereby giving rise to additional demand for education infrastructure. I am therefore satisfied that the contribution meets the three tests for planning obligations, as set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations), in that it is necessary, directly related to the development, and fairly and reasonably related in scale and kind.
10. The appellant has provided an executed planning obligation by means of a Unilateral Undertaking to comply with this requirement. I therefore conclude that the development would make adequate provision for education infrastructure, and would thus comply with DPD Policy DC72 and the SPD.
11. There is also a requirement in respect of the Council's monitoring fee of £180. However, there is no evidence before me which would indicate that the cost of monitoring the UU would give rise to additional costs over and above the Council's existing resources. I therefore consider that this is an unjustified requirement and I have not taken it into account in reaching my decision.

Other Matters

12. I have had regard to the concerns raised by local residents in respect of parking pressure in the vicinity. However, two existing off-street parking spaces will be retained, and two additional off-street spaces will be provided for the new dwelling, which I consider to be adequate. I note that the Council have raised no concerns on parking or traffic safety grounds, and there is no detailed evidence before me relating to the problems that have been alluded to.
13. The Council has raised concern over the amount of outdoor space that would be available to both the existing and the proposed dwellings. However, this issue did not form a reason for refusal of the planning application.

Conditions

14. I have had regard to the planning conditions that have been suggested by the Council, and have considered them against the relevant advice in the PPG. As a result, I have amended some of them for clarity and brevity.
15. For certainly, it is necessary that the development is carried out in accordance with the approved plans. Conditions relating to materials, landscaping and site levels are appropriate in the interests of character and appearance. Conditions requiring details of cycle, refuse and recycling storage are necessary to ensure a sustainable form of development. Conditions relating to sound insulation and obscure glazing are necessary to ensure satisfactory living conditions. Conditions relating to car parking spaces and visibility splays are necessary to ensure highway safety. A condition specifying construction times is necessary to ensure there are no significant adverse impacts upon the living conditions of local residents during the construction period.
16. I have not imposed the suggested condition restricting the formation of new windows or openings within the flank wall of the development, or the suggested condition removing permitted development rights. Clear justification is required for such restrictions, and the PPG advises that they should only be used in exceptional circumstances. There is no evidence before me in this case to justify such conditions. I have not imposed the suggested condition relating to the agreement for alterations to the public highway as this relates to other regulatory requirements.
17. It is essential that the requirements of conditions 3,4,5 and 8 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.

Conclusion

18. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Elaine Gray

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: RA236/14/1A, RA236/14/2A.
- 3) No development shall be commenced until a drawing showing the proposed site levels of the appeal site and the finished floor levels of the development has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall be commenced until a scheme of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. The scheme shall include details of: any existing planting to be retained; a schedule of plants noting size, species, planting heights, densities and positions, and; any boundary treatments. The landscaping works shall be carried out in accordance with the approved details before the end of the first planting and seeding season following occupation of the building or completion of the development, whichever is sooner. Any trees, plants or grassed areas detailed in the approved landscaping scheme which are removed, die, or become severely damaged or diseased within five years of the completion of development shall be replaced with a tree, plant or grassed area of comparable size and species in the next planting season, unless otherwise agreed with the local planning authority.
- 5) No development shall be commenced until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 6) The dwelling hereby permitted shall not be occupied until cycle storage facilities have been provided in accordance with details that have been submitted to and approved in writing by the local planning authority. The facilities shall be retained and shall remain available for use thereafter.
- 7) The dwelling hereby permitted shall not be occupied until refuse and recycling storage facilities have been provided in accordance with details that have been submitted to and approved in writing by the local planning authority. The facilities shall be retained and shall remain available for use thereafter.
- 8) No development shall be commenced until details and samples of the materials to be used in the construction of the car parking spaces have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples. The car parking spaces shall be retained permanently thereafter and shall not be used for any other purpose.
- 9) Demolition or construction works shall take place only between 08.00-18.00 on Mondays to Fridays, 08.00-13.00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 10) The dwelling hereby permitted shall not be occupied until the first floor window serving the bathroom has been fitted with obscure glass only. Once installed, the obscured glazing shall be retained thereafter.
- 11) The dwelling hereby permitted shall not be occupied until the site access has been constructed with visibility splays measuring 2.1m by 2.1m on either side of the access. No structure, plant or tree exceeding 600mm in height above adjacent footway level shall subsequently be erected or allowed to grow within the visibility splay areas.
- 12) The development shall be constructed so as to provide sound insulation of 45 DnT, w + Ctr dB (minimum value) against airborne noise. The sound insulation works shall be completed before the use of the building begins and retained thereafter.