

Appeal Decision

Site visit made on 16 November 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 23rd November 2016

Appeal Ref: APP/B5480/W/16/3156253

37 and 39 St George's Avenue, Havering, Hornchurch, RM11 3PD

- 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 Stuart Brown and Alan Comper against the decision of the Council of the London Borough of Havering.
 - The application Ref P0575.16, dated 2 February 2016, was refused by notice dated 27 May 2016.
 - The development proposed is demolition of existing outbuilding/garage (number 39) and construction of 2 detached bungalows with private amenity and off-street parking fronting Beverley Close, Hornchurch.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the Emerson Park area;
 - The effect of the proposal on highway safety; and
 - The effect of the proposed development on the infrastructure of the Borough.

Reasons

3. The appeal site is situated in the rear gardens of numbers 37 and 39 St George's Avenue within sector five of the Emerson Park Policy Area which is characterised by a mixture of medium and large sized detached family houses set in spacious well landscaped grounds and smaller often semi-detached properties set in smaller grounds. St George's Avenue is comprised of single and two storey semi-detached dwellings with small gardens enclosed by low boundary walls to the front and long gardens to the rear.
 4. The proposed dwellings would front onto Beverley Close, a cul-de-sac composed of one and a half storey semi-detached properties with enclosed gardens to the front. Although properties in Beverley Close are smaller than some properties within the Emerson Park Policy Area they are, nevertheless, set within relatively spacious plots set back from the road with front gardens, separation between the end gables and modest rear gardens. In contrast, the
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- proposed dwellings would occupy almost the full width of the plots and would only be set back from the road by approximately 1-1.4 metres. Consequently, the proposed dwellings would appear cramped and excessive in their plots at odds with the spacious character of the area.
5. The western side of Beverley Close in the vicinity of the appeal site is defined by the fence line of the rear gardens and associated outbuildings of St George's Avenue and the eastern side is defined by the rear garden of no 38 Beverley Gardens. The proposal would, therefore, introduce two dwellings on a section of Beverley Close which is not characterised by residential development. Furthermore, the significant mass and bulk of the buildings would appear as isolated and uncharacteristic intrusions when viewed from Beverley Close and adjacent properties.
 6. Moreover, the proposal would be in direct conflict with the Emerson Park Policy Area Supplementary Planning Document (EP SPD) 2009 which states that where land is assembled for new houses, existing plots shall not be reduced below a size consistent with the size setting and arrangement of properties in the area.
 7. The appellant contends that the proposal would remove unsightly boundary treatment and large outbuildings. There is a large outbuilding to the rear of no 39 and a small garage to the rear of no 37. However, whilst the outbuilding to the rear of no 39 is larger than most it is, nevertheless, clearly ancillary in terms of function and design to the host property. The outbuildings are, therefore, appropriate to their setting and I consider that they have a less harmful effect on the character and appearance of the area than the appeal proposal would.
 8. Taking these factors in combination, I consider that the proposed dwellings would not relate well to the existing pattern of development and would, therefore, represent an uncharacteristic and incongruous feature at odds with the spacious and open feel to the area. Consequently, the proposal would not establish a strong sense of place or respond positively to the local character of the area.
 9. Attention is drawn to a number of decisions which the appellant considers supports his case. There is limited information before me regarding these cases. However, I note in the case at 92 Harrow Drive the dwelling is set back behind a front garden area and is situated almost at the end of a row of existing properties. The cases at Hendon Garden and Sheffield Drive involved the complete redevelopment of existing garages and did not involve the development of garden land.
 10. In the case at Southend Road the Inspector noted that due to the appeal site's location, the proposal would have a limited effect on the open character and row of dwellings as a whole and that there would no significant effect on the street scene. I note that the area surrounding Blewett's Cottages is of a 'compact nature' comprising terraced properties. Land to the rear of Broxley Crescent is situated adjacent to a rear parking area/garage block. Finally, the proposal at Belle Vue Road formed part of a number of new small scale bungalows fronting onto Philan Way. None of these cases are, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.

11. I, therefore, conclude that the proposal would cause significant harm to the character and appearance of the Emerson Park area. It would, therefore, be contrary to Policy DC61 of the Core Strategy and Development Control Policies Development Plan Document (DPD) 2008 which states that planning permission will only be granted for development which maintains, enhance or improves the character and appearance of the local area. Conflict also arises with Policy DC69 of the DPD which states that planning permission will only be granted if it maintains, or enhances, the special character of the Emerson Park Policy Area. The proposal is also in conflict with the EP SPD.

Highway Safety

12. Policy DC33 of the DPD states that car parking provision within new developments should not exceed the maxima set out in Annex 5. Annex 5 cross-references to Policy DC2 which sets out a density matrix for residential development. The supporting text to the Policy states that the density matrix does not apply to the Emerson Park Policy area. The EP SPD does not include a parking requirement and consequently the appellant contends that parking provision should be considered on a site by site basis. However, the Council consider that the proposal would be classed as 'rest of the Borough' in the density matrix where a requirement of 1.5 to 2 spaces per dwelling would apply.
13. Notwithstanding whether the density matrix applies to the appeal proposal, taking into account the location together with the suburban nature of the area, I consider that the requirement of 1 parking space per unit and one shared visitor space is reasonable. This reflects the minimum requirement applicable to the 'rest of the Borough'. The Public Transport Accessibility Level (PTAL) of the site is zero and consequently there is no justification for a reduction in the parking requirement. As the proposal does not meet the requirement it is necessary to assess whether any harm would arise from any overspill parking on surrounding streets.
14. The appeal site is situated close to the outside of a bend in a narrow road. The need to keep the existing and proposed accesses clear would restrict the ability to park on the western side of the road and it would not be possible to park on the inner corner of the bend. The narrow width of the road would limit parking to one side of the road in any event and parked cars may restrict the ability of cars to manoeuvre in and out of the garages on the western side of the road. The narrow width of the road could also lead to parking partially on the pavement which would hinder pedestrian movement. Taking these factors into account I consider that indiscriminate parking could lead to potential vehicular and pedestrian conflict and compromise highway safety.
15. The appellant has undertaken a survey of parking within a 200m distance of the site which demonstrated that there were 97 unrestricted kerb side parking opportunities within the study area. The survey showed 41 kerbside spaces utilised during the weekend and just 16 occupied at the weekend. However, I note that the survey was not undertaken at night time when the level of parking is likely to be at its highest. This limits the weight I can attach to it in my Decision.
16. Although the car parking standards are maxima, given the very low PTAL rating for the appeal site, the nature of the road and in the absence of reliable evidence to the contrary, I cannot be certain that the proposal would not

compromise highway safety. Consequently, it has not been demonstrated that a reduction in car parking standards can be justified in this case.

17. The plans show visibility splays for emerging cars, however, visibility splays for cars leaving the driveway in reverse gear are not achievable due to the projection of the proposed houses. There is no guarantee that vehicles would leave the site in a forward direction. However, given that the road only serves eleven dwellings, that there are already two existing garages/accesses and as vehicles are likely to be travelling slowly, I consider that there would not be a material increase in harm to highway safety arising from the proposal compared to the existing situation.
18. I, therefore, conclude that the proposal would cause harm to highway safety due to insufficient parking provision. The proposal would, therefore, be contrary to Policy DC33 of the DPD which states that car parking provision within new developments should not exceed the maxima set out in Annex 5. Conflict also arises with Policy DC34 of the DPD which seeks to promote walking and ensure that the needs of pedestrians are taken into account.

Infrastructure

19. The Council consider that financial contributions are required towards the provision of infrastructure, in accordance with Policy DC72 of the DPD and the Planning Obligations Supplementary Planning Document (PO SPD) (2013) and appended technical reports, which states that a contribution of £20,444 is required per dwelling, discounted to £6,000 taking into account viability.
20. The Council has provided information relating to the need for contributions towards school places, drawing on evidence in the Draft Commissioning Plan for Education Provision 2015/16-2019/20. This particularly shows a need for secondary places and post-16 places which due to their nature would serve all parts of the Borough. The report also shows that there is no spare capacity to accommodate demand for primary and early years school places generated by new development.
21. Policy DC29 of the DPD requires that educational needs are met by new development. The appeal proposal is for the development of two one bedroom houses and the PO SPD does not set a threshold in terms of dwelling size. The appellant has indicated that they are willing to enter into a Legal Agreement should a contribution be deemed necessary.
22. Paragraphs 013-017, 019-023 and 031 have been added to the Planning Practice Guidance (PPG) stating that affordable housing and tariff style contributions should not be sought from small scale and self-build development of 10 units or less. This follows the order of the Court of Appeal¹ which gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014.
23. The Council contends that the financial contribution sought should not be regarded as a tariff, as it is not a fixed fee based on a fixed list of charges, but is based on the financial impact of the residential proposal in relation to the need for education provision. The extent of contribution considered necessary would vary depending on the particular circumstances involved and the

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

contribution would, therefore, be fairly and reasonably related in scale and kind to the development. However, I am not persuaded that it prevents the resulting charge from being a tariff style contribution.

24. The Planning Practice Guidance (PPG) clarifies that tariff style contributions are those that contribute to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area². From the evidence provided, I am satisfied that the contribution considered necessary by the Council would be used in this way, for the provision of education facilities within the Borough, rather than site specific infrastructure requirements³.
25. Planning law requires development to be determined in accordance with the development plan unless material considerations indicate otherwise. National policy is such a consideration to which I must give considerable weight. In this case, I consider that it provides an appropriate justification for a departure from the policies of the development plan in this regard. As such, in this particular case, I find that a financial contribution to education facilities within the area would not be necessary and, thus, the absence of a provision in this respect would not be a reason to find against the proposal.
26. Two appeal decisions have been drawn to my attention in relation to this matter. However, I do not have the full details of those cases or the evidence submitted in support of those cases. This limits the weight which I can attach to them in my Decision and consequently, they do not lead me to alter my findings on this matter.
27. Therefore, for these reasons, I conclude that the proposal makes adequate provision for local infrastructure within the area. Whilst the proposal would not meet the requirements of DPD Policies DC27 and DC29, it would not conflict with Government policy on these matters, as expressed in the Written Ministerial Statement of 28 November 2014, to be read alongside the Framework.

Other Matters

28. Whilst the proposal may bring some economic benefits during the construction phase, these would be very modest and short term. In terms of the social aspect of sustainability, the proposal would make a contribution, albeit small, to housing land supply. However, for the reasons stated the proposal would not meet the environmental dimension of sustainable development. The proposal would not, therefore, constitute sustainable development as required by paragraph 14 of the Framework.

Conclusion

29. For the reasons stated and taking all other matters into consideration the appeal should be dismissed.

Caroline Mulloy

Inspector

² PPG: ID 23b-014-20160519

³ PPG: ID 23b-020-20160519