



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: 24th November 2016

Appeal Ref: APP/B5480/W/16/3155327

6 Hamilton Drive, Romford, Havering RM3 0UU

- 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 Robert Breadon against the decision of the Council of the London Borough of Havering.
 - The application Ref P0033.16, dated 12 January 2016, was refused by notice dated 27 April 2016.
 - The development proposed is the demolition of the existing pair of semi-detached 3 bedroom houses (2 and 4 Hamilton Drive), and the garages for no 4 and the garage for no 6 and the erection of 6 no 3 bedroom family houses with secure off street car parking for 12 cars and associated private gardens.
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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 area;
 - The effect of the proposal on the living conditions of the existing occupiers at numbers 6 and 8 Hamilton Drive and future occupiers; and
 - The effect of the development on the infrastructure of the area.

Reasons

Character and appearance

3. The appeal site is situated in Hamilton Drive, a residential area comprised of mainly semi-detached and terraced housing. Whilst there are a variety of architectural styles the south east of the road is characterised by semi-detached dwellings with modest enclosed front gardens and long gardens to the rear. The appeal site adjoins the rear gardens of properties on Squirrels Heath Road and Southend Arterial Road.
 4. The Council do not raise concerns regarding the effect of the proposed dwellings fronting onto Hamilton Drive on the character and appearance of the area. From everything which I have seen in submissions and on my site visit I have no reason to disagree. The proposal has been revised from a previous scheme for 3
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dwelling to the front of the site and a three-storey block of 6 flats to the rear of the site which was dismissed at appeal¹ on 16 November 2015.

5. The block of flats has been replaced by three two and a half storey terraced dwellings situated further forward in their plots. The appellant contends that the revised scheme has addressed the concerns of the previous Inspector in terms of reducing the height and massing of the scheme. However, I note that there has only been a very small reduction in the footprint of the proposal compared to the previous scheme.
6. In addition, whilst the proposal has been reduced from three-storey to two and a half storey, the overall height would remain the same as the previous scheme due to the introduction of the pitched roofs. The slope of the pitched roof and the step down to the rear projection reduces the bulk of the proposal to the rear; however, there would be prominent dormers to the front elevation which would add to the mass and bulk of the appeal proposal.
7. The dwellings to the rear have been set further forward thus increasing the distance to the boundary with no 6 Hamilton Drive; however, this does not address the concerns of the previous Inspector regarding the proximity to the proposed houses to the front of the site.
8. Overall, I consider that the proximity to the existing and proposed dwellings to the front would result in a cramped appearance. Whilst the dwellings to the rear would be of a similar scale to the proposed frontage dwellings, the frontage dwellings would reflect the prevailing pattern of development and would not intrude into garden space. The significant mass and bulk of the buildings in the currently undeveloped gardens would introduce an uncharacteristic and incongruous addition which would be at odds with the prevailing pattern of development and spacious character of the area.
9. Whilst the Framework cautions against the imposition of architectural styles or particular tastes it, nevertheless, indicates that it is proper to seek to promote or reinforce local distinctiveness. For the reasons stated the proposal would not establish a strong sense of place or respond positively to the local distinctiveness of the area.
10. Attention is drawn to a nearby site at 15-21 Squirrels Heath Road; however, the main frontage of that site is onto the Arterial Road and it is diagonally opposite a building of similar height. The context of the development is materially different from the appeal proposal and it does not, therefore, alter my overall conclusion.
11. I, therefore, conclude that the proposal would cause significant harm to the character and appearance of the area and 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.

Living conditions

12. No 6 and 8 Hamilton Drive and the host properties currently have an existing outlook over the large rear gardens. The proposed dwellings to the rear have been set back a further 6.5m from the eastern boundary of the site which lies adjacent

¹ Appeal reference APP/B5480/W/15/3128838

to the gardens of no 6 and 8 Hamilton Drive compared to the previous scheme and has consequently improved the relationship with the existing dwellings at 6 and 8 Hamilton Drive to a degree. Nonetheless, the proposed dwellings would reduce the outlook from the rear windows and rear gardens of no 6 and 8 and would consequently have a dominating presence. Due to the location of the buildings to the south of properties on Hamilton Drive I consider that they would cast a shadow over the garden of no 6 around lunchtime to early afternoon. Due to the increased separation, I consider that the living conditions of the occupiers of no 8 Hamilton Drive would not be unduly affected.

13. Furthermore, relocating the proposed dwellings further forward would increase the dominating effect of the proposal on proposed plots 1 and 2. The future occupiers of those properties would be faced with a blank gable elevation thereby affecting their outlook from the rear windows and gardens. The dwellings would also cast a shadow on the rear gardens of all three frontage dwellings in the morning into the early afternoon to the detriment of the enjoyment of those gardens by future occupiers. Consequently, I am not persuaded that the concerns of the previous Inspector have been overcome.
14. For the reasons stated I consider that the proposal would unacceptably detract from the living conditions of nearby existing occupiers at no 6 and future residents as regard to outlook and light. The proposal would, therefore, conflict with Policy DC61 of the DPD which indicates that planning permission should not be granted where a proposal would result in unacceptable overshadowing or overlooking.

Infrastructure

15. 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.
16. 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.
17. Policy DC29 of the DPD requires that educational needs are met by new development. The appeal proposal is for the development of 6 no 3 bedroom houses and the PO SPD does not set a threshold in terms of dwelling size. The appellant has provided a signed 106 Unilateral Undertaking.
18. 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 Appeal² which gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014.
19. 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

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

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 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.

20. 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 area³. 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 requirements⁴.
21. 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. Consequently, it would not be lawful to take the Unilateral Undertaking into account in my Decision.
22. 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.
23. 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

24. 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

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

Caroline Mulloy

Inspector

³ PPG: ID 23b-014-20160519

⁴ PPG: ID 23b-020-20160519