

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/16/3157349
356 Wingletye Lane, Hornchurch RM11 3BU

- 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 C Oskis against the decision of the Council of the London Borough of Havering.
 - The application Ref P0863.16, dated 23 May 2016, was refused by notice dated 18 July 2016.
 - The development proposed is demolition of existing bungalow and erection of 2 x four-bedroom houses to the front of plot and 1 x three bedroom bungalow to the rear.
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Decision

1. The appeal is dismissed.

Main Issue

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 proposed development on the infrastructure of the Borough.

Reasons

Character and appearance

3. The appeal site is situated on the eastern side of Wingletye Lane and is currently occupied by a three bedroom bungalow and a number of outbuildings. The bungalow is situated within a spacious plot with a garden to the side and rear and parking area and a garden to the front.
 4. The surrounding area is largely residential and is characterised by detached and semi-detached one to two-storey dwellings set in spacious plots. Whilst there are a variety of architectural styles there is a consistency in terms of layout with properties set back some distance from the road with gardens and driveways to the front. The long gardens and mature landscaping to the rear of properties are particular features of the area. The rear garden of the appeal site is larger than some of the adjoining gardens with a number of fruit trees and it, therefore, contributes to the spacious feel of the area.
 5. The proposed two-storey dwellings to the front of the appeal site would follow the existing building line and would provide a gentle step up from the detached bungalow at no 358 Wingletye Lane to the two storey property at 1 Hubbards
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Chase. However, notwithstanding the reduction in the density of the scheme from a previous proposal, I consider that the bungalow to the rear would introduce a building of significant mass and bulk in the rear garden setting of Wingletye Lane. From the adjacent properties and their gardens the proposed bungalow would appear as an isolated and uncharacteristic intrusion in this open area which currently has no substantial buildings of a comparable scale. Consequently, the proposed house would not be well related to existing dwellings or the pattern of frontage development. Moreover, although the bungalow would be framed by the two properties to the front, the bungalow would, nevertheless, be highly visible from the road.

6. The footprint of the bungalow together with the long access road and parking and turning areas would introduce a significant amount of hard standing and built development within the existing spacious and verdant rear garden of the host property thus comprising the spacious feel of the area. Consequently, the proposal would not establish a strong sense of place or respond positively to the local character of the area.
7. A building which could be erected under permitted development rights would be lower than the proposed dwelling and it would not involve the same extent of hard surfacing as the access road and parking and turning areas of the appeal proposal. Consequently, the fall back position would be less harmful than the appeal proposal and does not, therefore, justify the harm which I have identified.
8. Whilst the rear gardens for the proposed frontage dwellings are smaller than those of surrounding properties I consider that they would, nevertheless, provide sufficient amenity space for the usual range of activities associated with domestic properties such as playing, sitting out and drying washing.
9. Attention is drawn to the relationship of numbers 1 and 3 Hubbards Chase which flank the southern boundary of the rear garden of the appeal property. Whilst those dwellings are two-storey and situated in close proximity to the boundary they have been an established part of the street scene of Hubbards Chase for some time and are consistent with the prevailing pattern of frontage development in the area. Furthermore, whilst they frame the southern boundary of the rear garden of the host property they do not intrude into the open space of the rear gardens. Moreover, the proposed bungalow would be situated considerably closer to the properties along Wingletye Lane than nos 1 and 3 Hubbards Chase. Consequently, I consider that they have a less harmful effect than the appeal proposal and their presence does not, therefore, justify the harm which I have identified.
10. Attention is drawn to a number of back land developments in the area, although only very limited details of these cases have been provided. In relation to the case off Herbert Road, I note that the site in question was flanked on both sides by cul-de-sac development orientated perpendicular to Herbert Road and thus the development reflected that of the surrounding area. In relation to the cases at Tyrsal Close and Tall Pine, I note that these were granted permission some time ago and pre-date the National Planning Policy Framework and current development plan. None of these cases are directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision. In any event, having observed the area I do not consider that back land development is a characteristic feature of the area.

11. The appellant quotes paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to encourage the effective use of land by reusing land that has been previously developed. However, the definition of previously developed land contained in the Glossary to the Framework clarifies that the definition excludes land in built-up areas such as private residential gardens.
12. For the reasons stated, I conclude that the proposal would harm 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.

Infrastructure

13. 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.
14. 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. Policy DC29 of the DPD requires that educational needs are met by new development. The appeal proposal is for the development of three houses and the PO SPD does not set a threshold in terms of dwelling size. However, in light of the recent judgement regarding national planning policy in relation to tariff style planning obligations and small scale development¹ the basis of the contribution is disputed by the appellant.
15. 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 contribution would, therefore, be fairly and reasonably related in scale and kind to the development, I am not persuaded that it prevents the resulting charge from being a tariff style contribution.
16. 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.

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

² PPG: ID 23b-014-20160519

³ PPG: ID 23b-020-20160519

17. 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.
18. 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.
19. 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

20. 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

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

Caroline Mulloy

Inspector