

Appeal Decision

Site visit made on 16 November 2016

by Caroline Mulloy (Hons) DipTP MRTPI

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

Decision date: 6th December 2016

Appeal Ref: APP/B5480/W/16/3156467

Station Chambers, Oak Road, Romford RM3 0PP

- 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 Tattenham Properties Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P0684.16, dated 26 April 2016, was refused by notice dated 21 June 2016.
 - The development proposed is creation of a mansard style roof extension to existing parade incorporating 4 no one bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An amended plan has been submitted as part of the appeal which shows the provision of two parking spaces in the south western corner of the site. Whilst the Council have had the opportunity to comment on the Plan, parties who made representations to the planning application have not and, therefore, accepting the Plan may prejudice the interests of parties. I am, therefore, unable to take the Plan into account in my Decision.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on highway safety with specific reference to parking; and
 - The effect of the proposed development on the infrastructure of the Borough.

Reasons

Highway Safety

4. The appeal site is situated on the northern side of Oak Road, on the junction with Gubbins Lane, close to Harold Wood Railway Station. The site is occupied by a three storey, flat roof building which has commercial units on the ground floor and residential units on the first and second floors. It is proposed to create an additional storey with a mansard style roof extension.
 5. Policy DC33 of the Core Strategy and Development Control Policies Development Plan Document (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. Policy DC2 indicates that in this part of the Borough parking provision for residential
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development should be between 1.5 and 1 space per unit. The proposal would, therefore, generate a parking requirement of between 4-6 units. The Council acknowledge that a lower parking standard may be acceptable, but not car-free parking.

6. The appellant contends that car-free parking would be suitable taking into account the location of the appeal site within the Oak Road Minor Local Centre and within close proximity to Harold Wood Station and the Station Road Major Local Centre. Whilst these factors weigh in favour of the proposal, the presence of the railway station has already been taken into account in the Public Transport Accessibility Level of the area.
7. The appellant also considers that one bedroom flats would not attract families; however, those flats would be capable of accommodating two people who may both have cars and as such there is no guarantee that future occupiers would not require a parking space. However, taking into account the location and nature of the proposal, I agree that car parking provision should be at the lower end of the range set out in Policy DC2 which would be 1 space per unit. Conflict thus arises with Policy DC2. It is, therefore, necessary to assess whether any harm to highway safety would arise from any potential overspill parking.
8. The existing building occupies a high proportion of the site and consequently opportunities for off-street parking are limited. Informal parking provision is situated on the forecourt to the front of the commercial units; however, these spaces do not appear to be allocated. I have considered whether some of the parking spaces on the forecourt to the front of the shops could be re-allocated, however, due to the informal nature of the provision there is no such mechanism before me to achieve this. Furthermore, due to the restricted nature of the site vehicles would not have sufficient space to manoeuvre resulting in vehicles having to reverse out onto a busy road leading to potential vehicular and pedestrian conflict.
9. There are parking controls in the area Monday-Friday 1030-1130am and permit bays available 0800-1830. I also noted a significant amount of on-street parking associated with people visiting the shops at the time of my site visit. The appeal site is situated in very close proximity to the junction of Oak Road and Gubbins Lane. Given the already high level of on-street parking adjacent to the appeal site I am concerned that any overspill parking arising from the development could exacerbate the existing parking situation and lead to indiscriminate parking in the vicinity of the junction. There is no evidence before me to demonstrate that any overspill parking could be safely accommodated.
10. It is suggested that car-free parking could be secured by way of a condition. However, the Planning Practice Guidance¹ advises that '*in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk*'. I do not consider that the appeal scheme falls within the remit of this exception.
11. Policy DC2 of the DPD states that residential developments will only be permitted with less than one car parking space per unit where on-street car parking can be controlled through a Controlled Parking Zone. In these circumstances, residents of

¹ Paragraph: 010 Reference ID: 21a-010-20140306

new flatted development will be ineligible for residents parking permits. However, whilst the appellant has indicated a willingness to enter into a section 106 obligation there is no obligation before me. Consequently, even had I concluded that car free development was appropriate, there is no mechanism by which to secure this.

12. Whilst bullet point 3 of paragraph 32 of the National Planning Policy Framework (the Framework) states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe, bullet point 2 of paragraph 32 requires safe and suitable access to the site for all people. For the reasons stated I consider that the proposal would result in potential vehicular and pedestrian conflict to the detriment of highway safety.
13. Attention is drawn to an appeal decision for 3 retail units and 6 two bedroom flats at 1-3 Station Road not far from the appeal site. However, no details have been provided of this case or the evidence which was before the Inspector when he determined the appeal. However, I note that the appeal site has a PTAL rating of 4 and is closer to the railway station than the appeal site. It is also situated further away from the road junction than the appeal site. From the limited information before me this case is materially different to the appeal proposal which limits the weight which I can attach to it in my Decision.
14. For the reasons stated and in the absence of evidence to the contrary I, therefore, conclude that the proposal would cause harm to highway safety due to insufficient parking provision. It would, therefore, be contrary to Policies DC2 and DC33 of the DPD. Conflict would also arise with Policy DC32 of the DPD which states that new development which has an adverse impact on the functioning of the road hierarchy will not be allowed.

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 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.
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.

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

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 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 and, thus, the absence of a provision in this respect would not be a reason to find against the proposal.
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 proposals 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