
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: 09 December 2016

Appeal Ref: APP/B5480/W/16/3151041

Land adjacent to 67 Corbets Tey Road, Upminster, Essex RM14 2AJ

- 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 Alan Perry against the decision of the Council of the London Borough of Havering.
 - The application Ref P0118.16, dated 27 January 2016, was refused by notice dated 5 April 2016.
 - The development proposed is erection of 4 no. 1 bedroom flats.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 4 no. 1 bedroom flats at land adjacent to 67 Corbets Tey Road, Upminster, Essex RM14 2AJ in accordance with the terms of the application ref P0118.16 dated 27 January 2016, subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. An application for costs was made by Mr Alan Perry against the Council of the London Borough of Havering. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the surrounding area, the effect of the proposal on parking provision in the area, and the effect of the proposal on education infrastructure.

Reasons

Character and appearance

4. The appeal site is located to the rear of a parade of shops and businesses on Corbets Tey Road. The proposal would create a block of four flats located close to a larger residential development to the east which was granted planning permission in 2013¹. The principle of residential development in this location is considered to be acceptable by the Council, and I concur with that view.
5. The new block would be two storeys in height, and its design would reflect the appearance of the existing adjacent block. I note that a previous proposal for

¹ P1152.13

a larger block of flats on the appeal site was dismissed on appeal² on the grounds of character and appearance. The present scheme incorporates a number of revisions in the light of that decision.

6. The new block would be orientated with the main aspects facing north and south, and the side elevations would be blank. The east elevation would sit close to the west elevation of the neighbouring block. The west elevation would be visible from the surrounding land and the rear of the adjacent properties on Corbets Tey Road. Whilst blank, the appearance of this elevation would be relieved by the contrast between the wall and roof sections. The proposed building would change the appearance of the land, but at a total height of approximately 6.9m and a depth of around 14m, it would not dominate the surrounding area. Rather, I consider that it would sit comfortably within the context of the larger adjacent block.
7. The Council contends that the limited space to the east and west sides of the new building would be unacceptable. I accept that the plot is constrained, but this is often the case in a built up urban environment. There would be an adequate separation distance between the development and the rear boundaries of the Corbets Tey Road properties. As the new flats would face north/south, with no openings on the western side, there would be no pressing need for any more generous allocation of land to the west. The strip of land to the east would adequately serve as an access to the private garden area, and would have little wider visual impact on the area due to its location. I consider that the proposed private gardens to the south are proportionate to the modest size of the new building.
8. In support of their case, the Council makes reference to the requirements of the National Planning Policy Framework (NPPF) which attaches great importance to the design of the built environment. For the reasons above, I find that the development would integrate successfully in this location, as required by NPPF paragraph 61, having taken account of the characteristics of the site and its immediate surroundings.
9. NPPF paragraph 63 states that great weight shall be given to outstanding or innovative designs. However, it seems to me that this is encouraging decision makers to apply this factor in the planning balance, rather than setting outstanding design as an absolute requirement in all proposals. Paragraph 64 states that permission should not be given to poor design which fails to take the opportunities available for improving the character or quality of an area. The appeal site in its current state detracts from the area, and the development would represent a satisfactory design response in this instance, thus fulfilling the aims of paragraph 64.
10. I therefore conclude that the proposal would preserve the character and appearance of the surrounding area, and so would accord with Policy DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (DPD, 2008), insofar as it requires development to complement the amenity and character of the area. It would also comply with the design criteria set out in the NPPF.

² APP/B5480/W/15/3033455

Parking provision

11. The appeal site is located in an area with a PTAL rating of 4, which is regarded as 'good'. In such areas, the Council requires that less than one car parking space should be provided per dwelling unit within new developments. The scheme would provide two new parking spaces immediately outside the new building. In addition, two existing spaces from the adjacent block would be reallocated for the use of the future occupants of the development. This level of parking provision, at one space per unit, would more than satisfy the Council's requirements.
12. The Council seeks an agreement to restrict the future occupants from applying for parking permits. The appellant is in agreement, and a completed unilateral undertaking (UU) has been submitted. However, there is no detailed evidence before me in relation to the current levels of parking stress in the area, or to show that the development would unacceptably increase parking pressure in the area if no restriction was imposed on parking permits.
13. I therefore find that the restriction on future residents' parking permits covenanted in the UU has not been demonstrated to be necessary. It would thus fail to meet the relevant statutory test in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL regulations). As a consequence, this element of the UU does not form part of my reasons for allowing the appeal.

Education infrastructure

14. 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 sought per unit.
15. The Council has submitted detailed evidence to demonstrate the need for school places in the borough. The appeal scheme proposes to create four one-bedroom flats, and I note that the SPD does not set a threshold in terms of dwelling size in respect of education contributions. Nonetheless, the new flats would not provide what could reasonably be considered as family accommodation. I am therefore not convinced that this form of residential development would be able to accommodate children of school age. As such, the development would not result in additional pressure on school places. Consequently, I do not consider that the requirement for a financial contribution towards education infrastructure in this instance would meet the statutory test of necessity.
16. The Council have drawn my attention to a number of appeal decisions³ in support of their position. However, in each of these cases, it is clear that the developments in question would be large enough to house families, and so would be likely to place demands on school places. As such, they do not provide a direct parallel to the appeal scheme before me, and so I can afford them limited weight.

³ APP/B5480/W/15/3003374, APP/B5480/W/15/3004782, APP/B5480/W/15/3132642 & APP/B5480/W/15/3140418

17. Therefore, whilst the UU provides for a contribution of £24,000 towards education infrastructure, it does not form part of my reasons for allowing the appeal.
18. There is also a requirement in respect of the Council's monitoring fee of £720. 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

19. Residents have raised concerns with regard to the proposed parking arrangements, and the allocation of two existing spaces to the new development. However, I note that the Highway Authority has not raised any objection on those grounds. The parking provision would meet the Council's requirements in respect of both the existing and proposed developments. This matter has therefore not led me to a different conclusion.
20. In respect of highway safety, the Highway Authority has not objected to the proposal on this basis, and it did not form one of the Council's reasons for refusal. Moreover, there is no evidence before me which would lead me to conclude that the use of the existing access, either during the construction phase or by the new residents, would result in any significant increase in risk to highway safety.
21. I acknowledge concerns over the effects of noise and pollution that may arise during the construction phase. However, any effects would be temporary, and would not justify the withholding of planning permission.
22. Residents have further objected to the proposal on wider matters, including overcrowding, security, sound insulation, drainage/sewerage, amenity space, provision of cycle and refuse bins, and impact on the nearby businesses and residences on Corbets Tey Road. However, these did not form part of the Council's reasons for refusal, and there is no substantive evidence before me to show that these matters would result in a level of harm which would justify the dismissal of the appeal.

Conditions

23. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the PPG. As a result, I have amended some of them for clarity and brevity.
24. For certainty, it is necessary that the development is carried out in accordance with the approved plans. Conditions relating to materials and landscaping are appropriate in the interests of character and appearance. A condition relating to foul and surface water is appropriate in the interests of proper site drainage. Conditions securing a Construction Management Plan and specifying construction times are necessary to ensure there are no significant adverse impacts upon the living conditions of local residents, or upon the highway. I have incorporated the proposed vehicle cleansing facilities condition within the condition requiring the Construction Management Plan as I consider this to be more proportionate.

25. A condition relating to the sound insulation of the development is necessary to ensure the satisfactory living conditions of neighbouring residents. A condition to secure a parking plan is necessary to ensure highway safety.
26. It is essential that the requirements of conditions 3,4,7 and 8 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.
27. I have not imposed the proposed conditions relating to water efficiency or Accessible and Adaptable Dwellings requirements as these matters relate to other regulatory requirements. Finally, I have not imposed the proposed condition restricting the formation of new windows or openings within the flank walls of the development. Clear justification is required for such a restriction, and the PPG advises that it should only be used in exceptional circumstances. There is no evidence before me in this case to justify such a condition.

Conclusion

28. 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: 265/14/PL2000 Rev B
- 3) No development shall be commenced until a schedule of the external materials to be used in the construction of the walls and roof of the building hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 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 and fencing. 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 any part 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) The dwellings hereby permitted shall not be occupied until a car parking plan has been submitted to and approved in writing by the local planning authority. The parking plan shall clearly indicate the two spaces within the adjacent car parking area which will be assigned to the development hereby permitted. All new car parking areas shall be laid out and surfaced to the satisfaction of the local planning authority. The car parking spaces shall then be retained and shall remain available for use at all times thereafter.
- 6) The building hereby permitted shall be constructed so as to provide sound insulation of 45 DnT, w + Ctr dB (minimum value) against airborne noise and 62 L'nT, w dB (maximum values) against impact noise. The sound insulation works shall be completed before the use of the building begins and retained thereafter.
- 7) No development shall be commenced until a scheme of surface and foul water drainage has been submitted to the Local Planning Authority and approved in writing. The proposed new dwellings shall not be occupied until the surface and foul water drainage scheme has been fully implemented as thus approved.
- 8) No development shall be commenced until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for:
 - a) the parking of vehicles of site operatives and visitors;
 - b) vehicle cleansing facilities;
 - c) storage of plant and materials used in constructing the development;
 - d) measures to control the emission of dust and dirt during construction;
 - e) measures to control the emission of noise and vibration during construction;
 - f) siting and design of temporary buildings;
 - g) the erection and maintenance of security hoarding, including 24-hour contact details, and;
 - h) a scheme for recycling/disposing of waste resulting from demolition and construction works. The burning of waste on the site at any time is specifically precluded.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) 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.