The Planning Inspectorate

Appeal Decision

Site visit made on 12 December 2016

by P W Clark MA MRTPI MCMI

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

Decision date: 22 December 2016

Appeal Ref: APP/B5480/W/16/3158788
Land to the rear of 36, 38 (Bay Tree Medical Centre) and 40 Collier Row Lane, Romford, Havering RM5 3BJ

- 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 Dr Velautham Kuhan against the decision of the Council of the London Borough of Havering.
- The application Ref P0017.16, dated 8 January 2016, was refused by notice dated 18 March 2016.
- The development proposed is residential development including the demolition of the existing garages to numbers 38 and 40.

Decision

1. The appeal is dismissed.

Main Issues

2. There are five main issues to be considered. They are the effects of the proposal on;

    - The character and appearance of the area
    - The living conditions of potential future residents in terms of amenity space
    - The living conditions of existing residents of number 40 and potential future residents at number 38 in terms of noise
    - Highway safety
    - The demand for and provision of school places.

Reasons

Character and appearance

3. In the immediate vicinity of the site, Collier Row Lane comprises small two storey semi-detached pebble-dashed houses linked by garages. They have hipped roofs with two storey canted bays. Almost all front areas are paved and used for parking so that hard surfaces dominate the street scene. Nearby are two facing terraces of flats over ground floor retail and commercial premises with paved forecourts, reinforcing the domination of hard surfaces in the street scene. Surrounding the site on its north, west and east sides are the rear

gardens of small terraced houses, the street sides of which are also generally paved and used for parking so that hard surfaces again predominate in the street scene.

4. Given this harsh public context, it is not surprising that the undeveloped area of this site, which has been largely left to run wild, is valued for its contribution to the green space formed by the rear gardens of the surrounding houses. But, it is not designated for any particular wildlife or ecological value. Were this site to be developed, those other rear garden areas, which form the majority of the space, would remain.

5. There is nothing in the height of the proposed houses or in the topography of the site to suggest that they would be any more prominent or dominant than any other house which surrounds the site. They would exist, where none presently exists, and they could be seen from within the gardens of neighbouring houses as can all the other houses which surround the site but that is not a sufficient reason to dismiss this appeal.

6. It is true that the majority of the public space between the proposed houses would comprise hard surfacing. But that is a noticeable characteristic of the existing housing surrounding the site, so would not make this development look out of place. The gardens of the proposed houses would continue to contribute to the green area at the rear of surrounding houses, albeit to a lesser extent than at present but, as the Council confirms, complying with its standards.

7. The one detached and four semi-detached houses proposed would be similar in footprint to those of surrounding streets. Their upper floors would be rendered and painted, rather than pebbledashed and their roofs would be gable ended rather than hipped but, as paragraph 8.1 of the Council's Residential Design supplementary planning document points out, backland provides the opportunity to bring forward high quality housing and neighbourhoods with their own distinctive character. There may be no other backland development in the immediate vicinity (and the two appeal decisions to which I was referred are not local) but that is no reason to dismiss this appeal in the face of such a commendation from the Council's own guidance.

8. It is also true that some trees would be lost in order to allow the development to take place, most notably a single specimen conifer in the rear garden of number 38 and a line of conifers along the boundary between the gardens of numbers 38 and 40. But none of the trees on site are subject to Tree Preservation Orders. Most of the native trees on site are on its periphery, adjacent to the rear gardens of houses in Thameshill Avenue and there would be little necessity to remove them.

9. I conclude that the proposal would maintain the character and appearance of the local area and that although it would not retain every existing tree it would respect the scale, massing and height of its surroundings and so complement the character of the area in accordance with policy DC61 of the Havering Core Strategy and Development Control Policies DPD adopted in 2008 (the Local Plan). It would also comply with London Plan policies 3.5(B) and 7.4(B)(a) which require development to have regard to the pattern, scale and grain of existing spaces and streets and to take account of local character.

Living conditions of potential future occupants

10. As already noted, the public space between the proposed houses would largely comprise hard surfacing. In that respect, living conditions would be similar to those of surrounding streets. The rear amenity spaces would be somewhat smaller than is common in the area but, as the council accepts, would comply with the standards of its Residential Amenity Space SPD and have good orientation.

11. I conclude that the effects of the proposal on the living conditions of potential future residents would be acceptable. The proposal would comply with Local Plan policy DC3 controlling housing design and layout which, as paragraph 1.3 of the plan tells us, is to be implemented through the Residential Amenity Space SPD.

Living conditions of occupants of 38 and 40 Collier Row Lane

12. The access to the proposed development would pass between the flanks of numbers 38 and 40 Collier Row Lane and run alongside their rear gardens. But in doing so, its effects would be no different from any side road in an urban area. In the immediate vicinity of the site, Oaks Avenue and Wainfleet Avenues pass adjacent to the flanks and rear gardens of numbers 24 and 50 Collier Row Lane and 1, 2 and 37 Thameshill Avenue without unacceptable effect although carrying larger volumes of traffic than are likely to be generated from the five houses of this appeal proposal.

13. There is no information to show that the effects of noise from the access proposed would be in excess of normally accepted conditions. I conclude that the effects of the proposal on the living conditions of occupants and potential occupants of numbers 38 and 40 Collier Row Lane would be acceptable. They would comply with Local Plan policy DC55 which would deny permission to development causing an exposure to noise above acceptable levels.

Highway Safety

14. The proposed access to the site would lie on the outside of a bend, which is favourable to visibility. However, the pedestrian visibility splays of 2.1m which are shown, rely on land outside the site although currently within the appellant's ownership. Their provision and retention could be required by condition but it would be more reassuring if they were shown as part of the layout of the site within the site boundary.

15. Although the gap between numbers 38 and 40 Collier Row Lane which would be created by the removal of their garages would be just over 5m at its narrowest, the access road would narrow to approximately 3.3m for a distance of about 6m at its junction with the main road. This would be too narrow for vehicles to pass. The concern is that on occasions, vehicles intending to turn into the site would have to wait in Collier Row Lane, obstructing the designated area for turning into Rosedale Road opposite the site, or would even have to reverse into Collier Row Lane if an exiting vehicle was encountered.

16. Advice in the government's Manual for Streets is that in lightly trafficked streets, carriageways may be narrowed over short lengths to a single lane as a traffic-calming measure. However, widths between 2.75m and 3.25m should be avoided in most cases and the local Fire Safety Officer should be consulted where a carriageway width of less than 3.7m is proposed because the Building

Regulation requirement B5(2000) requires a minimum carriageway width of 3.7m between kerbs for access and facilities for the Fire Service.

17. In this case, the single lane proposed would not be intended as a traffic calming measure and would require waiting vehicles to stand on a busy main road carrying bus routes. I concur with the view of the highway authority that this would be unacceptable, particularly as there is sufficient land within the appellant's ownership and control for a more accommodating layout to be devised.

18. I conclude that the proposal would have an unacceptable effect on highway safety. It would therefore be contrary to Local Plan policy DC32 which would deny permission to development which would have an adverse effect on the functioning of the road hierarchy, though not to policies DC2 and DC33 which are quoted in the reasons for refusal but which require parking provision not to exceed a maximum quantity.

School places

19. The Council's Commissioning Plan for Education Provision 2015/16 – 2019/20 provides clear evidence that in the school planning areas in which the site is located there would be substantial deficiencies in both primary and secondary school capacity within a few years, even if this proposed development did not add to the demand. Although the appellant's e-mail of 3 November 2016 confirms that a Unilateral Undertaking to meet the costs of providing school capacity to serve the development would be offered, none has been submitted.

20. The appellant is correct in asserting that it is government policy, set out in a Written Ministerial Statement of 28 November 2014, that tariff style contributions should not be sought in respect of sites of ten units or less. The Council asserts that its request for a contribution of £6,000 per unit towards education provision is not based on a tariff but, in the absence of a specific proposal to spend the money on school provision serving this proposed development, it has the characteristic of contributing to a pool of money intended to fund the provision of general infrastructure in the wider area which is proscribed by government Guidance[1].

21. However that may be, it remains the case that there is likely to be a deficiency in the provision of education facilities in the area, which this proposed development would exacerbate and for which there are no proposals to remedy. In these circumstances I must conclude that the proposal would have an unacceptable effect on the demand for and provision of school places in the locality. It would therefore be contrary to Local Plan policies DC29 and DC72 which seek contributions from developers to certain types of infrastructure, including education provision. This conclusion is consistent with the three appeal decisions (3152013, 3140418 and 3153745) to which the Council has referred me and which all post-date the decision of the Court of Appeal in May 2016 confirming the legality of the government's policy.

Conclusion

22. I have considered all the other matters raised but they do not affect my overall conclusion. The proposal would, in a small way, increase housing supply in accordance with London Plan policy 3.3 but there is no information to suggest

[1] Paragraph: 015 Reference ID: 23b-015-20160519

that Havering is not meeting its housing requirements, even though Local Plan policy CP1 prioritises all non-designated land for housing. Consequently, I am not convinced that there is any overriding housing need which would overcome the adverse effects on highway safety and the supply of and demand for education provision which this proposal would engender. The appeal is therefore dismissed.

P. W. Clark

Inspector