
Appeal Decision

Site visit made on 13 December 2016

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 12 January 2017

Appeal Ref: APP/B5480/W/16/3155761

48 Montgomery Crescent, Romford, Havering RM3 7UJ

- 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 Abdul Ghafar (Dawnz Property Ltd) against the decision of the Council of the London Borough of Havering.
 - The application Ref P1854.15, dated 14 December 2015, was refused by notice dated 7 July 2016.
 - The development proposed is proposed new dwelling land adjacent to 48 Montgomery Crescent, RM3 7UJ.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site lies within a residential area where the principle of residential development is supported. However, the main issues in this case are the effect of the proposed development on the streetscene of Montgomery Crescent and Northallerton Way and the wider area; and whether the proposal makes adequate provision for any additional need for education provision arising from the development.

Character and appearance

3. The host property forms the end property of a short terrace of housing which lies at the corner of Montgomery Crescent and Northallerton Way. The wider area is residential in character with a mix of low rise purpose built flats, traditional semi-detached dwellings and small terraces of housing, as well as modern infill developments, set within an open, suburban, established streetscape.
 4. I am aware that the roof of the proposed development has been designed to reflect the hipped nature of the host property and its ridge line would be lower. In addition, the front elevation would be set back and the first floor recessed. Nonetheless, the construction of the additional dwelling would extend the terrace closer to Northallerton Way and would substantially extend the depth and bulk of the side elevation. I note that only the outermost corner of the two storey side extension would breach the building line. However, as the road slopes up and curves around the side of the appeal site and the majority of the front gardens are open in aspect, the proposed rear and two storey side elevation, taken together with the single storey side extension, which would
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substantially breach the building line, would appear obtrusive, highly prominent and dominant when approached from Northallerton Way.

5. Part of the existing front garden cuts back at a 45 degree angle at the corner of the two roads. Following the subdivision of the plot the resultant front garden of the appeal property would be roughly triangular in shape. I understand that the appeal proposal does not extend as far towards Northallerton Way as the previously dismissed appeal¹. Nonetheless, due to the configuration of the plot and the scale and mass of the proposed development the proposal would still appear awkward and cramped on a small plot.
6. I have been referred to an extant permission for a two storey extension² to the host property which was considered by the Council to be sympathetic in terms of character and appearance. However, I note that it did not include any single storey extension, nor does it appear to increase the overall depth of the property. Clearly the appellant may implement the approved scheme as an extension to the property. However, from the evidence I have before me, it appears to be substantially different in appearance and would not result in an additional dwelling. Therefore, I accord it limited weight in my consideration of the appeal before me. Similarly, I have carefully considered the appeal decision to which I have been referred at 32 The Ridgeway³. However, I do not have sufficient information to conclude whether the two developments are directly comparable. In any case I have determined the current appeal on its own merits. Given that I have concluded that the appeal proposal would appear awkward and cramped, as well as being obtrusive, highly dominant and prominent in the street scene, it would not accord with Policies 3.5 and 7.4 of the London Plan (LP), as consolidated with alterations since 2011⁴, and Policies CP17 and DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (CSDCP) adopted 2008. These policies require development to be of a high quality, to maintain or improve the character and appearance of the area and to respect the scale and mass of the surrounding area.

Education provision

7. The Council's Planning Obligations Supplementary Planning Document predates the Written Ministerial Statement (WMS) of November 2014. The SPD supports Policies DC72 and DC29 of the CSDCP, which set out the Council's approach to Planning Obligations in general, and education provision in particular. Policy 8.2 of the LP requires planning obligations to address both strategic and local priorities.
8. I am required to determine the appeal for one dwelling on the basis of the development plan unless material considerations indicate otherwise. The Planning Practice Guidance sets out specific circumstances where contributions for tariff style planning obligations should not be sought from small scale and self-build development. These include from developments of 10 units or less. This follows the order of the Court of Appeal dated 13 May 2016, which gives legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014⁵. Moreover, obligations should not be sought to contribute to

¹ APP/B5480/A/08/2060717

² P0945.14

³ APP/B5480/W/16/3149666

⁴ March 2015

⁵ PPG ID: 23b-031-20160519

pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area⁶.

9. I note that the Council has made a case that the requirement of £6000 to mitigate the impact of an additional dwelling on local education provision is not a tariff, and that no more than 5 individual contributions would be used to fund specific proposals. However, from the evidence before me the cost appears to be calculated to relate to a generic requirement to finance a need to address a wider shortfall in local education provision, to be spent at either a local primary school or the expansion of a secondary school⁷, neither of which have yet to be identified. I therefore conclude that it would be a fixed tariff.
10. I have carefully considered the evidence before me including a number of recent appeal decisions. However, I do not have the detailed circumstances of the cases before me. Nonetheless, from the evidence provided to me and in the light of the Court of Appeal judgment which post-dates the Council's detailed Policies DC29 and DC72 of the CSDCP, I have attached substantial weight to the WMS as a material consideration, which is Government policy, to be read alongside the Framework. I have also carefully considered the provisions of Policy 8.2 of the LP which was adopted after the publication of the CIL Regulations and before the May 2016 judgment. Nonetheless, there is nothing within the Policy which would alter my conclusion in relation to this appeal. Therefore, I conclude that the absence of a planning obligation, relating to a financial contribution towards education provision, should not weigh against the development.

Other matters

11. The appellant pointed out that the host property could be extended without the need for planning permission. However, given its particular location, only limited development could take place. Moreover, any extension undertaken under permitted development rights would not result in a separate dwelling. Consequently, I attach minimal weight to the fall back position.
12. The proposed development would provide economic benefits accruing from the construction and fitting out of the property, the use of local services by residents, potential New Homes Bonus and the contribution to CIL to which I accord moderate weight. However, the payment of Council tax and utility bills is required in return for the provision of services. Therefore, I give little this weight.
13. The London Borough of Havering includes Green Belt. Reference has been made to the shortage of housing within the Borough and the social benefit to be derived from the provision of a new dwelling. However, it is unclear whether there is an undersupply of housing. Nonetheless, even if there is not a sufficient supply, I consider that the proposed development would only make a marginal contribution. Moreover, private residential gardens are specifically excluded from the definition of previously developed land within Annex 2 of the Framework. Therefore, the proposed development does not contribute to the Framework core planning principle to encourage the effective use of land which has previously been developed.

⁶ PPG ID: 23b-014-20160519

⁷ Council's Statement of Case paragraph 2.10

Conclusion

14. I conclude that the provision of an additional dwelling would not outweigh the environmental harm the scheme would cause to the character and appearance of the area and it is thus not the sustainable development for which there is a presumption in favour. In reaching this conclusion, I have borne in mind paragraphs 47- 49 of the Framework and its guidance that planning should always seek to ensure high quality design.
15. For the reasons set out above I conclude that the appeal should be dismissed.

L. Nurser

INSPECTOR