
Appeal Decision

Site visit made on 11 January 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 14 February 2017

Appeal Ref: APP/B5480/W/16/3159580

2 Brooklands Road, Romford, Havering, RM7 7DX

- 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 Abava Developments against the decision of the Council of the London Borough of Havering.
 - The application Ref P1652.15, dated 6 November 2015, was refused by notice dated 22 August 2016.
 - The development proposed is erection of an apartment building to provide 10 no. 2 bedroom flats and associated vehicular access, drainage works and landscaping, following the demolition of all existing buildings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on (a) the living conditions of existing occupiers of nearby dwellings with particular regard to outlook and privacy; (b) the character and appearance of the area;
 - Whether the proposal would make appropriate provision for infrastructure, with particular regard to school places.

Reasons

Living conditions

3. The Council's decision raises two issues; outlook and privacy. I understand that there are no 'standards' for separation. Nevertheless, the gardens for the dwellings in Brooklands Road are not as deep. A significant proportion of the front elevation would be visible above the boundary treatment, even taking into account the separation from the boundary. In addition the building would be taller than the existing buildings and contain a number of openings. It would be visible from the gardens and rear facing windows of several dwellings in Brooklands Road. As such the proposal would be prominent when viewed from the house and garden of these properties. Consequently the outlook would be obstructed by a significant and imposing building. It would result in substantial harm to outlook for these properties.
 4. The building in Brooklands Close contains flats which have a garden area to the rear. The end elevation of the building closest to the appeal site does not
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contain any openings. The elevation of the new building that would face the garden area would contain 'false windows'. Therefore there would not be inter visibility between the buildings or views of the existing garden area from the new flats.

5. The side elevation of the building would sit on the common boundary with the building in Brooklands Close. I appreciate that it would be a taller building than existing. However, the roof of the new building would slope away from the boundary. In addition it would not extend along the entire length of the common boundary. The dwellings along Como Street have long gardens and the building would be set away from the common boundary areas. When taken together these factors would ensure that there would not be excessive loss of privacy to the garden areas of these dwellings. Overall, for these reasons, I do not consider that there would be harm to the outlook of the dwellings in Brooklands Close or Como Street.
6. I have found that there would not be harm to outlook and privacy of dwellings in Brooklands Close or Como Street. However, this does not alter my conclusions regarding the properties in Brooklands Road. I therefore conclude that the proposal would have a harmful effect on the living conditions of the occupiers of existing dwellings, with particular regard to outlook. It would be in conflict with policy DC61 of the Development Control Policies DPD in so far as it seeks to safeguard the amenity of existing properties and the National Planning Policy Framework (the Framework) which seeks to ensure a good standard of amenity for all existing occupiers of land and buildings.

Character and appearance

7. The site would be formed from an area to the rear of dwellings on Brooklands Road. It is currently occupied by a used car dealership. There are two buildings on the site. The surrounding buildings are predominantly two storey terraces and semi detached properties. There is also a group of flats in Brooklands Close.
8. The appeal scheme would be a single building. It would face toward the dwellings in Brooklands Road and Como Street. The new building would not replicate the form or layout of the surrounding buildings. The building would be taller than the existing buildings in the locality. However, as the appellants point out, the wider area does contain flatted development. In addition the terraces form strong continuous frontages. As such whilst the building would be taller than these building views of it through the terraces would be limited. For these reasons, subject to the use of appropriate material finishes, the building would not be harmful to the character and appearance of the area.
9. It would therefore not be in conflict with DPD policy DC61 and paragraph 56 of the Framework which amongst other things, requires that development maintains, enhances or improves the character and appearance of the local area and respects the scale, massing and height of its surrounding context.

Education

10. DPD Policy DC72 seeks to ensure that new development provides for sustainable development through securing contributions towards infrastructure that are necessary to mitigate the impact of the development. LP policy 8.2 requires developments to address strategic as well as local priorities in

planning obligations. Policy DC29's overall objective is the provision of adequate primary and secondary education facilities, and the stated means of achieving this include seeking payments from residential developers for the capital infrastructure of schools required to meet the demands generated by the residential development.

11. Although these policies pre-date the Framework, they remain broadly consistent with paragraph 203, which outlines that planning obligations may still be sought in order to mitigate the impacts of new development. Paragraph 204 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (CIL) outline planning obligations must meet the three tests.
12. The Council has supplied a number of recent appeal decisions¹ in which Inspectors have concluded that the approach of Policy DC29, combined with the Council's monitoring arrangements in relation to payments, would not engage the provision of Regulation 123 of the CIL regulations that a planning obligation cannot constitute a reason for granting permission where it would result in funding infrastructure development by means of pooled contributions, particularly following the recent changes to the Planning Practice Guidance (PPG). Although the scheme is for 10 two bed flats they would be likely to generate material additional demand for school places.
13. It is common ground that the Council's Planning Obligations Supplementary Planning Document is out of date. The Council still considers the evidence background contained in its technical appendices to be relevant. Based on this information the requirements for education relate to the evidence provided which confirms that there is a shortage of school places across the borough. In particular that there is a need for secondary and post 16 places as well as there being no capacity to accommodate demand for primary and early years places arising from the development.
14. The Council is seeking a contribution of £6000 per dwelling. It sets out that it would require 3% of the total sought to monitor the obligations to ensure that no more than five contributions are pooled for individual projects. The appellant has queried the inclusion of the monitoring contribution. In this case with regard to Regulation 123 of CIL, the Council has confirmed that it will ensure, through its monitoring arrangements, that no more than five contributions are pooled. There is no evidence before me to suggest that the necessary provision would be made by CIL contributions. Therefore in this case it would be necessary.
15. Whilst no specific project has been identified by the Council which is directly related to the development, it is clear from the evidence that the monies would be targeted at providing additional school places. Moreover, there is a clear shortage of primary and secondary school places in the area where the development would be located. It is the Council's intention to pool this contribution for a specific project to expand an existing school or provide a new school.
16. I am therefore satisfied that the contribution would meet the three tests set out in paragraph 204 of the Framework and Regulation 122 of CIL which requires obligations to be necessary to make the development acceptable in

¹ APP/B5480/W/16/3153011; APP/B5480/W/16/3152013; APP/B5480/W/16/3153735; APP/B5480/W/15/3140418

planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

17. It would not be appropriate to seek to secure the obligation via condition. In this case the appellant has provided a signed and dated agreement for consideration that would secure the contribution. I appreciate that the changes to the PPG are a material consideration. The scheme is '10 units or less' as referred to in the PPG change. However, in this case the provision of the obligation would accord with the policies of the development plan to which I attach significant weight. Therefore I have taken it into account and conclude that the proposal would make adequate provision towards education in the area. Consequently, the proposal would not conflict with Policies DC29 and DC72 of the Core Strategy and Policy 8.2 of the London Plan.

Conclusion

18. I have found that the proposal would not harm the character and appearance of the area, would not lead to loss of privacy and would make adequate provision towards education in the area. However, it would result in substantial harm to outlook for existing occupiers in Brooklands Road. Therefore for the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR