
Appeal Decision

Site visit made on 17 January 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 16 February 2017

Appeal Ref: APP/B5480/W/16/3160652

Land rear of 36 Mawney Road, Romford, RM7 7HR

- 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 Mercatura Properties Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P1073.16 dated 27 June 2016, was refused by notice dated 14 September 2016.
 - The development proposed is demolition of existing rear storage building and proposed two bedroom bungalow with three rear dormers, two front rooflights and two solar panels and new crossover from Olive Street to the land rear of 36 Mawney Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would be acceptable in terms of its effect on the living conditions of the occupiers of neighbouring properties, with particular reference to privacy and outlook;
 - Whether the proposal would be acceptable in terms of the living conditions of the future occupiers of the proposed dwelling, with particular reference to outlook; and,
 - Whether, if necessary, satisfactory provision is made to mitigate the impact of the proposed development on local education infrastructure.

Reasons

Character and appearance

3. The area around the appeal site is of somewhat varied character. Olive Street is lined with traditional two storey bay fronted residential properties, mostly semi-detached though with some short terraces, located on long narrow plots. Whilst this is of reasonably high density, some visual relief is provided at road junctions where the rear of plots fronting onto one road adjoin the sides of plots fronting another, allowing views across gardens. Mawney Road itself is a busy thoroughfare which, in addition to residential properties, has a mixture of
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commercial, retail and other activities including a local school. The residential properties fronting onto the north side of Mawney Road close to its junction with Olive Street are more substantial properties on larger plots.

4. No 36 Mawney Road occupies a corner plot at the junction with Olive Street, and has a particularly large front and side garden area. This attractive period property with a prominent two storey corner bay is currently vacant, though I note that it is currently the subject of an application for change of use to an HMO¹. The appeal site is located to the rear of this house and is a roughly triangular shaped plot with its long side fronting onto the West side of Olive Street. It is somewhat unkempt and occupied by a number of single storey outbuildings, which the appellant states are used for commercial storage, and does not appear to have been maintained as garden space for some time. It is enclosed by close board fencing.
5. The proposal would remove the existing storage buildings and replace them with a detached two bedroom chalet bungalow and off street car parking fronting onto Olive Street. The new dwelling would be set back from the road frontage to align with its neighbours. It would have two front bay windows to its Olive Street frontage, three small dormer windows in its rear roof slope, and both two rooflights and two solar photovoltaic panels in its front roof slope.
6. I accept that this property would follow the front building line of this side of Olive Street, and that features such as the bay windows and materials have been selected to complement those used in neighbouring properties. I also accept that there are other detached properties on Olive Street. However, the plot which would be created would be constrained by its size and shape. As a result the uncharacteristic plan form of the proposed dwelling, with its comparatively long double bay frontage onto Olive Street, would contrast with its neighbours. Furthermore the ridge height of this dwelling would be significantly lower than neighbouring properties and in this sense it would appear as an incongruous addition to the local street scene.
7. More generally, this proposal would introduce a dwelling which would fill much of the width of this site, into what has previously been garden land and remained reasonably open, albeit with the presence of low level structures. This degree of openness close to the street corner, which as noted above, is characteristic of the plot configuration present in the residential roads of this area, would be eroded by the presence of this dwelling. Whilst I accept that this gap does not presently provide views across gardens, the absence of significant built form does nonetheless provide some visual relief. In contrast, the insertion of a detached bungalow into this small plot in this location would appear both as an uncharacteristic addition to the local townscape and as an over-development of this site.
8. The appellants states that the proposal would be supported by the design requirements of the National Planning Policy Framework (the Framework). However, for the reasons set out above, it is clear that this proposal would not support the local distinctiveness of this area, nor would this represent an innovative design which would help raise the standard of design more generally.

¹ P1747.16

9. The parties are in agreement that this is a highly sustainable location with good access to a range of transport options, services and facilities. In this respect the appellants refer to paragraph 65 of the Framework which states that planning permission should not be refused for buildings which promote high levels of sustainability because of concerns about incompatibility with existing townscape. However, my view is that this proposal does not in itself promote such high levels of sustainability as to warrant an exception to usual design requirements to be made.
10. On this matter I conclude that the proposal would have a detrimental effect on the character and appearance of the area. In this respect it would conflict with the London Borough of Havering Core Strategy and Development Control Policies and Development Plan Document (the Core Strategy) 2008, Policy DC61 which requires development to maintain, enhance or improve the character and appearance of the local area. It would also conflict with the Residential Design Supplementary Planning Document (SPD) 2010 which requires that proposals for new residential development should respond to the distinctive local building forms and patterns of development, and respect the scale, massing and height of the surrounding area.

Living conditions -neighbours

11. The proposed dwelling would be sited close to its side boundaries, particularly to the north and west, adjoining both No 1 Olive Street and the side boundary of No 40 Mawney Road. The Council raises concerns about the effect of the rear facing dormer windows on the living conditions of the occupiers of neighbouring properties. Whilst I note the appellants comment that the proposed dormer windows were moved to the rear elevation at the request of the Council, I am required to assess the effect of their currently proposed position.
12. The dormer windows would directly overlook the rear of No 40 Mawney Road, though would be orientated away from and would not overlook the side elevation of No 1 Olive Street. The submitted plan indicates that the dormer windows would be obscure glazed and non-opening, presumably to avoid the overlooking of neighbouring properties. Whilst the introduction of non-obscured opening windows in this location would lead to overlooking of the rear of No 40, I am required to deal with the proposal before me at the present time. In this respect the present proposal would not lead to overlooking of adjacent properties.
13. Whilst I have found that this would be an incongruous addition in terms of local character, my view is that it would be sufficiently distant from the adjacent properties so that the immediate visual impact of this addition would not be significant. Its lower ridge level and the fact that the site is not directly overlooked by its immediate neighbours would also mitigate its impact. Furthermore, its relationship with facing properties on Olive Street would be similar to that found elsewhere in this road. In this respect my view is that this dwelling would not be an intrusive or overbearing addition.
14. The proposal would therefore be acceptable in terms of its effect on the living conditions of the occupiers of neighbouring properties with particular reference to outlook and privacy. In this respect the proposal would not conflict with the Core Strategy Policy DC61 which states that planning permission will not be granted where the proposal results in unacceptable overlooking or loss of

privacy. It would not conflict with the Residential Design SPD requirement that residential layouts should ensure sufficient outlook and privacy.

Living conditions – future occupiers

15. As noted above, two of the rear facing dormer windows would serve habitable rooms. In this respect, I share the Council's concern that the provision of obscure glazed and non-opening windows in this location, notwithstanding the presence of a front facing rooflight to each, would not be suitable for bedrooms. My view is that it would be reasonable to expect that bedrooms would have an external view commensurate with the style of property and location. Therefore, whilst this measure would address the privacy concerns identified above, it would not provide a suitable standard of accommodation for the future occupiers of this property.
16. The proposal would therefore not be acceptable in terms of its effect on the living conditions for the future occupiers of the proposed dwelling with particular reference to outlook. In this respect it would conflict the Residential Design SPD which at 9.1 states that all habitable rooms should contain at least one main window with an adequate outlook.

Contribution to local education infrastructure

17. Core Strategy Policy DC72 seeks to secure the provision of contributions through planning obligations in order to ensure that new development follows the principles of sustainable development. This includes contributions to local education infrastructure, in accordance with Policy DC29, to help to meet the additional needs generated by new residential development. Whilst these policies pre-date the Framework, they remain broadly consistent with paragraph 203 which sets out that planning obligations may still be sought in order to mitigate the impacts of new development. Additionally, paragraph 204 of the Framework states that where planning obligations are sought they must meet the three tests².
18. The Council's Planning Obligations Supplementary Planning Documents, (Planning Obligation SPDs) Technical Report 1: Assessment of Infrastructure Costs 2013 and Technical Report 2: Viability Assessment 2013, set out how the Council has assessed contributions for a wide range of infrastructure. However, with the exception of education contributions, all of these are now funded through Community Infrastructure Levy (CIL) payments. The SPD Technical Reports advise that in relation to education provision the cost of mitigating the effects of new development equates to £6,000 per dwelling, which is the contribution sought by the Council in this case.
19. This approach is supported by paragraphs 17 and 72 of the Framework which state that planning should take account of and support local strategies to deliver sufficient community and cultural facilities and services to meet local needs, and that the Government attaches great importance to ensuring sufficient choice of school places is available to meet the needs of existing and new communities. It is also relevant to note the recent appeal decisions referred to by the Council which support the principle of securing such

² These are the three tests which are also set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010: planning obligations should be necessary to make the development acceptable in planning terms; directly relates to the development; and, fairly and reasonably related in scale and kind to the development.

contributions to mitigate the effects of residential development on education provision in the borough.

20. As the present proposal would provide a new unit of residential accommodation it is clear that a contribution towards education would be necessary, directly related to the development and reasonably related in scale and kind. Whilst the appellants have stated that they would have no objection to entering into a formal agreement, no completed Section 106 obligation is before me and so no mechanism exists to provide the required contribution to education provision in the borough. The proposal would therefore conflict with the Core Strategy Policies DC29 and DC72, and also Policy 8.2 of the London Plan which has broadly similar aims relating to local priorities.
21. Though not a reason for refusal in this case, the appellants accept the need to make an additional contribution to the Mayor of London's CIL, suggesting that this could be secured by means of a condition on a planning approval. However, the Planning Practice Guidance states that conditions requiring financial contributions are unlikely to be appropriate in the majority of cases³.

Other matter

22. Whilst the appellants state that this proposal would remove a non-conforming land use, no evidence has been presented to indicate that the lawful use of this land is anything other than residential. I therefore give this matter limited weight.

Conclusion

23. I recognise that the proposal would provide a net gain of one dwelling in a sustainable location. I have also accepted that it would not have an adverse effect on the living conditions of the occupiers of neighbouring properties.
24. However, such considerations are outweighed by the evidence I have examined in relation to the effect of the dwelling on the character and appearance of the area, the living conditions of future occupiers of this property and the lack of provision towards local education in the area. Therefore this proposal would conflict with the development plan taken as a whole, and this conflict would not be outweighed by other material considerations. It would also run counter to the provisions of the Framework.
25. I therefore conclude that the appeal should fail.

AJ Mageean

INSPECTOR

³ Paragraph: 005 Reference ID: 21a-005-20140306.