

Appeal Decision

Site visit made on 14 March 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 4 April 2017

Appeal Ref: APP/B5480/W/16/3165762

Land adjoining 12 Willow Parade, Moor Lane, Cranham, Essex RM14 1DZ

- 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 Best Friends Group against the decision of the Council of the London Borough of Havering.
 - The application Ref P1531.16, dated 14 September 2016, was refused by notice dated 24 November 2016.
 - The development proposed is a two storey side extension incorporating a ground floor shop unit and a first floor one bedroom self-contained flat.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension incorporating a ground floor shop unit and a first floor one bedroom self-contained flat at Land adjoining 12 Willow Parade, Moor Lane, Cranham, Essex RM14 1DZ in accordance with the terms of the application, Ref P1531.16, dated 14 September 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues raised by this appeal are the effect the development would have on the character and appearance of the area and whether the development should make a contribution towards the provision of education facilities.

Reasons

Character and appearance

3. The appeal site is an open area of hardstanding which lies adjacent to the end of a parade of commercial units with flats above. The parade has a consistent overall design which makes a positive contribution to the area's character and appearance. The land is currently used for informal car parking and makes little contribution to the character of the area. The proposal would extend the parade with a building which would harmonise with its two storey scale, design and appearance.
 4. The extension would have the effect of narrowing the gap which exists between buildings on Moor Lane where it meets Chipperfield Close. The building would be situated closer to Chipperfield Close than the majority of houses on that street which are set back from the road by gardens and forecourts. However, as a result of their design and orientation the buildings along Moor Road,
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including Willow Parade, appear distinct from the development along Chipperfield Close, the nearest building on which is separated from the appeal site by a service area.

5. Whilst Chipperfield Close slopes down towards the appeal site, the proposed extension would not appear intrusive or dominant within the streetscene of either road. The proposal's prominence would be reduced from many vantage points farther up Chipperfield Close by street trees. Although the proposal would reduce the spaciousness which currently exists close to the junction, this comparatively more open relationship between buildings has a neutral effect on the area's character and appearance. The visual narrowing of the entrance to Chipperfield Close would not lead to a constrained appearance nor significantly alter the streetscape.
6. Consequently the proposal would not harm the established streetscene. Rather it would respond to and respect the scale, massing and height of the distinctive built form of Willow Parade. It would reinforce, define and embrace the street as well as adding additional natural surveillance by way of the shopfront extending to the flank elevation and help to better define public and private realms at the corner. As such it would accord with the urban design requirements of Core Strategy¹ Policy DC61 and the design objectives² of the National Planning Policy Framework (the Framework).

Education contribution

7. The Council consider that the proposal should provide a contribution of £6,000 towards providing education facilities, secured through a planning obligation. This would be in order to mitigate the development's impact on education infrastructure, particularly the demand for school places which the Council consider would arise from the development. No obligation has been provided.
8. There is no suggestion that the ground floor retail unit would be a use which would generate any demand for school places. The proposed flat would be very modest in size and of a single bedroom configuration with little apparent scope to sub-divide or provide additional bedrooms in the future. These factors would mean that it is very unlikely to be occupied by a family with children, especially those of school age, and I have been presented with no evidence that would indicate otherwise. These are circumstances that indicate that there would be no additional demand for school places or other educational facilities directly arising from the proposed development. This does not support the Council's view that the proposal's impact on education provision would be "significant" or that "obvious and serious" harm would arise in the absence of such a contribution.
9. Consequently, a contribution would not be necessary to make the development acceptable in planning terms, not be directly related to the development and not be fairly and reasonably related in scale and kind to the development. These are the CIL Regulations³ and Framework⁴ tests that any obligation would have to meet to be sought or to be a reason for granting planning permission.

¹ Core Strategy and Development Control Policies Development Plan Document, 2008.

² Paragraphs 56, 58 and 64.

³ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

⁴ Paragraph 204.

10. Although it predates the Framework and CIL Regulations, Core Strategy Policy DC72 states that certain items, including education facilities, may be sought where they satisfy all the tests in Circular 05/05⁵. This Circular was replaced by the Framework but the Circular's tests align with those set out in the Framework and the policy is broadly consistent with the Framework in this respect as a result. Therefore the proposal would not conflict with Core Strategy Policy DC72 as the tests would not be satisfied. As the residential development proposed would not generate demands that would need to be addressed by seeking payment for capital infrastructure of schools, neither would the proposal conflict with Core Strategy Policy DC 29 or London Plan Policy 8.2.
11. In support of their position the Council have referred me to two recent appeal decisions. The appeal in Hornchurch⁶ related to the creation of a "studio flat" which, although it is not specified in the decision, I have taken to be a single bedroom flat. The Inspector was satisfied in that case that an education contribution was justified. However I have not been party to the details of that scheme nor to the development specific evidence which led him to that conclusion and I note that the appellant in that case was willing to make a contribution (but failed to secure it by way of a planning obligation). I cannot, therefore, be certain that the circumstances are the same as those which have arisen in this appeal and it does not lead me to an alternative conclusion on this issue.
12. The appeal in Romford⁷ related to the provision of dwellings of a three bedroom configuration which would have a materially different effect on demand for school places. It is therefore considerably less pertinent to the particular issue raised by the appeal before me.

Other Matters

13. In commenting on the application interested parties raised concerns about the effect the proposal would have on parking, pedestrian safety and visibility, citing existing conditions in the vicinity of the junction of Chipperfield Close and Moor Road. The proposal would leave the footway running around the side unaffected. The building would not be so close to the junction to harmfully affect driver visibility given how far it would be set back from the carriageway on Moor Road.
14. The additional vehicular traffic and parking arising from of a modest shop and one bedroom flat would be limited and would not materially worsen any parking conditions in the vicinity, particularly as parking would be provided as part of the scheme. I note that the Council's Officer Report records that there was no objection from the Highway Authority and that adequate parking provision would be provided. I therefore do not consider that these issues would indicate that permission should be withheld.
15. An interested party has suggested that the site includes facilities or land which belongs to other shop units or which they have access to. However, I have no evidence to suggest that this is a pertinent planning matter and it has not had a material bearing on my assessment of the planning issues in this appeal.

⁵ Circular 05/2005: Planning Obligations, Office of the Deputy Prime Minister, 2005.

⁶ APP/B5480/W/16/3153735, 92 North Street, Hornchurch RM11 1SR.

⁷ APP/B5480/W/16/3152013, 2 Netherpark Drive, Romford, Havering RM2 5RL.

Conditions

16. It is necessary to specify the approved plans as this provides certainty. Limiting hours of building operations and requiring approval of a construction method statement will ensure that neighbours' living conditions are not unacceptably affected during works. Approval of samples of materials will ensure the appearance of the area is maintained. Requiring cycle storage to be approved will ensure that occupiers have access to sustainable transport choices. It is necessary to ensure that adequate waste and recycling storage facilities are provided to protect occupiers and neighbours' living conditions, and the character of the area.
17. Limiting the opening hours of the shop will avoid any disturbance to the occupiers of the flats above in the evening, at night and early in the morning. Overlooking of nearby homes will be avoided by requiring the bathroom window to be obscure glazed and preventing additional windows or other openings in the flank wall of the building. It is necessary to require that the proposed parking spaces for existing and proposed uses shown on the approved plans are implemented and retained to minimise the need for occupiers' vehicles to be parked on surrounding streets.
18. Bearing in mind the Planning Practice Guidance's approach that such conditions should only be used in exceptional circumstances, there is very little evidence that it would be necessary to specify that the shop unit should be used for no other purpose than use class A1 (shops), as suggested by the Council. I have not been presented with any substantive reasons to suggest that the permitted development rights for a change of use from a shop, which in some instances require the prior approval of certain matters, would be incompatible with the surrounding area or that such a restriction is necessary to avoid conflict with the requirements of Core Strategy Policy DC61.
19. Although the Council's Environmental Health Officer recommended noise insulation conditions, there is no evidence that the proposed uses would either generate or be subject to excessive noise levels requiring insulation to a particular level. Furthermore, I note that the Council's Officer Report concluded that noise and disturbance generated would be no different to that of similar existing uses in the parade and would be acceptable in that respect. The Council consider that the flat should comply with Part M4(2) of the Building Regulations – Accessible and Adaptable Dwellings. However, complying with this optional standard requires step free access and there is no indication that a lift could provide an alternative to the steps which serve the existing flats and which would serve the proposed flat. I have therefore not attached conditions in these respects.

Conclusion

20. For the above reasons, and having had regard to all other matters raised, the proposal would not harm the character and appearance of the area or give rise to harmful effects as a result of not making a contribution towards the provision of education facilities. It would accord with the development plan and the Framework and the appeal is therefore allowed.

Geoff Underwood

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: 15213_010 Rev. A, 15213_011 Rev. D and Title Plan.
- 3) All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 0800 and 1800 Monday to Friday, and between 0800 and 1300 on Saturdays and not at any time on Sundays and Bank or public holidays.
- 4) No development shall take place, including any works of demolition, 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 personnel and visitors;
 - b) the storage of plant and materials;
 - c) dust management controls;
 - d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
 - e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points approved by the local planning authority;
 - f) a scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points approved by the local planning authority;
 - g) the siting and design of any temporary buildings;
 - h) a scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies, and;
 - i) details of disposal of waste arising from the construction programme, including final disposal points, including the preclusion of the burning of waste on the site.

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

- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 6) No part of the development hereby permitted shall be first occupied until cycle storage has been provided in accordance with a scheme, which includes its type and location, that shall first have been submitted to and approved in writing by the local planning authority. The facilities shall thereafter be kept available at all times for the storage of cycles.

- 7) No part of the development hereby permitted shall be first occupied until refuse and recycling storage has been provided in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The facilities shall thereafter be kept available at all times for the storage of refuse and recycling.
- 8) The ground floor shop unit hereby permitted shall only be open for customers between the following hours: 0800 and 1830 on Mondays to Saturdays and 1000 and 1600 on Sundays and Bank or public holidays.
- 9) No window or other opening (other than those shown on the approved plans) shall be formed in the flank wall of the building hereby permitted.
- 10) The flat hereby permitted shall not be first occupied until the first floor bathroom window in the flank elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
- 11) No part of the development hereby permitted shall be first occupied until space has been laid out within the site in accordance with drawing no. 15213_011 Rev D for 5 vehicles to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.