
Appeal Decision

Site visit made on 31 January 2017

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 20th April, 2017

Appeal Ref: APP/B5480/W/16/3163144
92 - 94 North Street, Romford, RM1 1DA

- 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 Tower Clock Ltd. against the decision of the Council of the London Borough of Havering.
 - The application Ref: P1493.16 dated 3 September, 2016 was refused by notice dated 7 November, 2016.
 - The development proposed is alteration of the roof to a mansard construction to create residential dwellings with new staircase, bin store and cycle store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of the appeal process which were not taken into account by the Council in determining the application. They show the introduction of a communal roof terrace to the building. I have considered whether it would be fair to accept these plans. I conclude that they would so change the development, particularly in relation to appearance and potential effects on the living conditions of neighbouring occupiers that the interests of interested parties would be prejudiced, as they would be deprived of an opportunity to comment on these plans were I to accept them. Accordingly, I have not done so.
3. The appellant has submitted a copy of a signed Unilateral Undertaking (UU) in respect of residents' parking permits and a contribution towards education provision in the borough. I return to these matters below.

Main Issues

4. The main issues are;
 - the effect of the development on the character and appearance of the area;
 - the effect on the living conditions of future occupiers of the site with respect to outdoor amenity space;
 - the effect on parking provision within the area; and
 - whether the proposal makes adequate provision towards school places in the area.
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Reasons

Character and appearance of the area

5. Number 92 – 94 North Street consists of a traditional, two storey building with a simple pitched and gabled roof set behind a single storey shopfront extension facing North Street. Behind it is a large traditional workshop building on two floors with a pitched and gabled roof.
6. The appeal application is for the conversion of the building to a two bedroom flat to the rear of the ground floor, retaining a retail unit to the front, and four one bedroom flats on the second floor. Utilising the existing building envelope, the development would entail the addition of mansard roof extensions to the frontage building and workshop block respectively in order to accommodate the additional storey of accommodation. There is a Certificate of Lawfulness for the use of the first floor for residential units, which are not therefore included in the application.
7. This part of North Street consists of a number of buildings in commercial use. The area retains a more traditional character of buildings of two and occasionally three storeys generally characterised by simple forms and pitched roofs with gables or parapets. Although the townscape of the area is not uniform in design, there is an overall consistency in terms of height and massing, which has normally been followed in more modern insertions such as the houses and commercial buildings along North Road to the south of the appeal site.
8. Although the mansards would feature cut out balcony areas to the corners of the front and rear elevations, by virtue of their depth and height they would nonetheless appear bulky. The cut outs would be an odd feature, which along with the very steep pitch and large area of flat crown roof at the apex would appear incongruous and be out of character with the generally modestly scaled simple roof structures of buildings within the area.
9. The existing steeply pitched mansard on the adjoining property of nos. 88 – 90 North Street is much smaller in size and scale than those which are proposed, and in any case is also an anomalous feature within the area. It does not therefore provide an appropriate design cue.
10. As the appeal proposal would have a harmful effect on the character and appearance of the area, it would conflict with Policy DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (the CS), which seeks to ensure that development would maintain, enhance or improve the character and appearance of the local area.

Outdoor amenity space

11. The appeal site is set in a densely developed area on the edge of the town centre. The nearest public open space, around half a kilometre away, is Coronation Gardens, a small park with limited facilities. Other, larger open spaces with sporting and other facilities are located at a least one kilometre away. Easily accessible open space in the area is therefore limited.
12. The appeal building occupies most of its plot. The development proposal would create a two-bedroom unit on the ground floor, which would be sufficiently large to accommodate families. A strip of space to the rear is allocated as the

garden area for this flat. It is however very narrow and it appears to me that the use of the space, due to its width, would be impractical for purposes such as sitting out or drying, or to provide a satisfactory play space for a child. Due to its high boundary wall, it would also provide poor outlook.

13. The balconies proposed for the four second floor flats would be insufficiently large to accommodate sitting out, while those facing busy North Street would be subject to noise and traffic and have limited privacy. I conclude therefore that they would not be capable of providing an adequate standard of outdoor amenity space.
14. The Council's Residential Design Supplementary Planning Document 2010, while not prescribing fixed standards for private outdoor amenity space, seeks to ensure that every new residential development should have access to suitable private or communal outdoor amenity space, including through the provision of areas as small as a balcony or patio. It also makes clear that the design and provision of private amenity space is particularly important in flatted schemes. As the appeal proposal cannot provide adequate usable outdoor amenity space, it therefore conflicts with this document. It also conflicts with Policy DC61 of the CS which seeks development which meets the needs of all people of all ages.

Parking provision within the area

15. The appeal site enjoys a high Public Transport Accessibility Level (PTAL) rating of 5 due to proximity of good public transport links. There is no usable space within the appeal site where off-street parking could be provided. These factors would be likely to deter car use and encourage use of public transport.
16. Nonetheless, future occupiers of the flats might choose to own cars, which would give rise to an increase in on-street parking. The surrounding area is a residential one where many houses benefit from off-street parking in garages and hardstandings, and on-street parking is controlled through permits and parking meters. There are a number of car parks in the wider area which provide season tickets. I conclude therefore, that while the appeal proposal might increase pressure on the availability of parking spaces in the locality, there is no reason to think that this would result in significant harm to highway safety or the quality of the environment.
17. I conclude therefore that the appeal proposal does not conflict with Policy DC33 of the CS which requires that new development should not exceed maximum standards, which in relation to a case of this type would be less than 1 space per unit. While Policy DC2 of the CS states that less than one off-street parking space per unit will only be permitted for residential developments where on-street parking can be controlled through a Controlled Parking Zone, the appeal site is within such an area and the proposal does not therefore conflict with it.
18. A planning obligation has been provided which acknowledges that no owner or occupier of any dwelling unit provided shall be entitled at any time to apply or obtain from the Council a residents parking permit in respect of any current or future residents' parking scheme for the area, and that the Council will be entitled to draft any traffic regulation order required for such a residents' parking scheme so as to exclude the owners and occupiers of the development.

19. However, as the absence of a contribution was not given as a reason for refusal by the Council, and as I have found that the development is unacceptable on other counts, this is not an issue on which I need to reach a conclusion.

Provision for school places

20. Policy DC72 of the CS seeks to secure contributions towards infrastructure to mitigate the effects of development. It includes provision for primary and secondary education facilities in relation to Policy DC29 of the CS. These policies pre-date the National Planning Policy Framework (the Framework) and must be considered in light of government policy as expressed in the Written Ministerial Statement dated 28 November, 2014 (the WMS) to be read alongside the Framework.
21. Although Paragraph 203 of the Framework indicates that planning obligations may be sought in order to mitigate the impact of new development, provided the tests set out in paragraph 204 are met, which are the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations), the WMS defines specific circumstances where tariff-style planning obligations should not be sought. This is supported by guidance in the Planning Practice Guidance (PPG) revised following a Court of Appeal judgement concerning the WMS 11 May, 2016¹, which itself overturned a previous Court judgement, dated 31 July, 2015². The WMS sets out that for sites of 10 units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought.
22. The Council refers to its Planning Obligations Supplementary Planning Document 2013 (the SPD) which sets out its approach to planning obligations, and acknowledges that, following changes to the CIL Regulations, the approach based on pooling financial contributions is now out of date. I concur and conclude also that Policies DC72 and DC29 are inconsistent with national policy as set out in the Framework and the WMS.
23. Nonetheless, the Council has also directed me towards the evidence contained in technical appendices of the SPD, which provide evidence for the impact of new residential development on infrastructure, and to the Council's "Commissioning Plan for Education Provision 2015/16 – 2019/20" 2015, which confirms the shortage of school places in most parts of the borough and the lack of capacity in existing educational provision to accommodate demand for additional school places generated by new development. The Council has calculated that the cost of mitigating this development in respect of all educational provision would be £8,672 per unit, but a discounted figure of £6,000 per unit is sought.
24. Although contributions for other forms of infrastructure are now funded through CIL payments, S106 obligations in this borough are still used to obtain contributions for education. The Council argues that this does not represent a tariff-style contribution as it is not based on a fixed list of charges but on the financial impact of the residential proposal.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

² West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government CO/76/2015 [2015] EWHC 2222 (Admin)

25. The PPG defines a tariff-style contribution³ as being where an authority seeks planning contributions to pooled funding 'pots' intended to provide common types of infrastructure for the wider area. On the basis of the evidence before me, the Council is not intending to identify a specific project for the requested contribution, but would allocate it, when received, together with a maximum of four other contributions to a specific project at a later date.
26. There are therefore two matters here: is the Council's approach to seeking such contributions, contrary to national policy as set out in the WMS, acceptable; and does the Council's approach involve pooled, tariff-style contributions that can be secured in accordance with the CIL regulations?
27. In terms of the first question, the proposal falls below the threshold set in the WMS. Therefore, while I accept that Policies DC72 and DC29 do seek contributions to education facilities, this is contrary to national policy on this matter. In the absence of convincing evidence that there would be no impact on the viability of this small-scale proposal or indeed that such contributions would not place a disproportionate burden on small-scale developers in the area, or that the education needs of the borough would not be met by appropriate obligations associated with large-scale schemes, the WMS remains a material consideration of significant weight. In this case, I am satisfied that it is sufficient to set aside the conflict with the relevant policies.
28. On the second point, even were it acceptable to seek such a contribution, the fact that the Council is now seeking an obligation which relates solely to education infrastructure does not, to my mind, take it out of being a tariff-style payment. It is clearly intended to be pooled with other payments, and in the absence of an identified project at the time of the submission of any obligation, I am not satisfied that this approach, nor one, as suggested by the Council, where agreement is reached with the appellant as to a range of possible schools where such a contribution could be spent, accords with CIL Regulation 122(2).
29. Furthermore, CIL Regulation 123(3) sets out that a maximum of five obligations may be sought for a specific infrastructure project or a particular type of infrastructure. I am not satisfied that a deferred approach to unidentified projects, whether overseen by the Council or not, accords with the regulations.
30. Although a signed obligation has been provided covenanting a payment towards education provision in the borough, it could not therefore, provide a benefit which could be weighed against the harm I have identified above, and does not represent a reason for the grant of planning permission.

Conclusion

31. For the reasons given above, therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

S J Buckingham

INSPECTOR

³ Paragraph 014 Ref ID:23b-014-20160519