
Appeal Decision

Site visit made on 27 March 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 24 April 2017

Appeal Ref: APP/B5480/W/17/3167886
28 Squirrels Heath Lane, Romford RM2 6DS

- 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 Jack Watts Holgate Property Services against the decision of the Council of the London Borough of Havering.
 - The application Ref P1467.16, dated 5 September 2016, was refused by notice dated 31 October 2016.
 - The development proposed is a 2 storey detached house.
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Decision

1. The appeal is dismissed.

Main Issues

2. I have had regard to the appellant's comments regarding duplication within the Council's reasons for refusal 1 and 2, and define the main issues for the appeal as:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed dwelling on the living conditions of occupiers of 2 Westmoreland Avenue, with particular regard to outlook and/or any overbearing effects; and
 - Whether the proposal makes appropriate provision for infrastructure, with particular regard to school places.

Reasons

Character and appearance

3. The appeal site consists of the irregularly shaped side garden of the host dwelling which tapers down in depth towards the junction of Squirrels Heath Lane and Westmoreland Avenue. I saw at my site visit that the front boundary of the site is defined by a wall and close boarded timber fence with conifers behind which screen the site from the street. The appeal scheme is for a two storey detached dwelling with a hipped roof. I note that the proposed dwelling has been redesigned from that previously dismissed at appeal¹.

¹ APP/B5480/W/16/3147261 dated 8 August 2016

4. I saw at my site visit that there is some variety in the design of dwellings and other buildings on Squirrels Heath Lane, including terraced properties, semi-detached and detached dwellings and flats. Despite this variety, I observed that there is some uniformity in the urban grain, layout and form of dwellings which are typically set back from the site frontage and laid out with gardens to the rear.
5. The proposed development would occupy a significant part of the appeal site, introducing built development into what is presently garden land. Whilst the appeal site is heavily screened, the proposed dwelling would nevertheless erode the spacious character between dwellings on Squirrels Heath Lane and Westmoreland Avenue. In addition, the siting of the proposed dwelling close to the tapering rear boundary of the site, with a very modest provision of garden to the rear would give rise to a development of a cramped appearance, which would not reflect the established character of the area.
6. The proposed dwelling would be arranged so that its kitchen and hall doors face towards the host dwelling, rather be orientated towards the street. Consequently, the dwelling would not present an active frontage towards the street. Furthermore, whilst the two storey element of the proposed dwelling would align with that of the host property, the single storey projection to the front would protrude appreciably beyond the established building line. Although the proposed dwelling with its hipped roof, brick ground floor and rendered first floor would reflect elements of the appearance of the host dwelling and reflect its scale and height, I nevertheless find that the proposal does not accord with the character and appearance of the area.
7. The appellant has referred to the design policies of the National Planning Policy Framework (the Framework) and specifically to paragraphs 59 and 60 to which I have had regard. However, I find that the appeal scheme does not reflect the layout of development in the local area generally nor reinforce local distinctiveness. I have also had regard to the residential development at the junction of Brentwood Road and Squirrels Heath Lane referred to me by the appellant which I saw during my site visit. I have however few details of that scheme before me to determine whether that scheme is similar to that before me and if so, whether it provides an example which should inevitably be followed given the harm found.
8. To conclude on this matter, the appeal proposal would give rise to significant harm to the character and appearance of the area contrary to London Borough of Havering Core Strategy and Development Control Policies Development Plan Document 2008 (DPD) Policy DC61 which is concerned with urban design and amongst the listed criteria, includes that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area including that development must respond to distinctive local building forms and patterns of development. The proposal also conflicts with the design policies of the Framework.

Living conditions

9. The proposed dwelling would be situated close to the tapering garden boundary with 2 Westmoreland Avenue, which I saw at my site visit is a chalet type bungalow. I note that No 2 has an irregular shaped rear garden. The Council has stated that the proposed dwelling would be situated about 6 metres from

the rear of No 2 at its closest point, a figure which has not been disputed by the appellant.

10. Although there are large trees on the common boundary between the properties which would have some screening effects and I note that comments that the appeal scheme has been reduced in scale from that previously proposed, the proposed two storey dwelling, due to its height and relative proximity to No 2 would nevertheless have a harmful effect on the outlook from No 2, and give rise to overbearing and dominating effects for its occupiers.
11. The appeal scheme therefore would give rise to significant harm to the living conditions of the occupiers of No 2, contrary to DPD Policy 61. The proposal also conflicts with the Framework, which in paragraph 17 includes that planning should always seek a good standard of amenity for all existing and future occupants of land and buildings.

Infrastructure - School Places

12. DPD Policy DC72 seeks to ensure that new development provides for sustainable development through securing contributions towards infrastructure where the appropriate tests are met. Policy 8.2 of the London Plan includes amongst other things that development proposals should address strategic as well as local priorities in planning obligations. DPD Policy DC29 is concerned with the provision of primary and secondary education facilities including by seeking payments from residential developers for the capital infrastructure of schools required to meet the demands generated by the development.
13. Whilst the DPD Policies predate the Framework, they remain broadly consistent with paragraph 203 which states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 204 of the Framework states that where planning obligations are sought, they must meet all of the three tests. The three tests are also set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) require that planning obligations should be necessary to make the development acceptable in planning terms; directly relates to the development; and be fairly and reasonably related in scale and kind to the development.
14. The Council has stated that its Planning Obligations SPD 2013 (SPD) is out of date in terms of the pooling of contributions due to Regulation 123 of the CIL Regulations. However, the evidence as set out in the supporting technical reports to the SPD demonstrates a need for school places across the borough and I note that there is no spare capacity to accommodate demand for primary and early year's school places generated by new development. The Council is seeking a contribution of £6000 per net dwelling, a figure derived from the SPD which includes 3% of the total sought to be to monitor the obligations to ensure that no more than five contributions would be pooled for individual projects. 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, which are not allocated on a geographical or a catchment basis. The Council has cited several appeal decisions² to which I have had regard.

² APP/B5480/W/16/3157634; APP/B5480/W/16/3160652.

15. I have had regards to the appellant's comments regarding the Community Infrastructure Levy and tariff type charges and note that the appellant would be obliged to pay the CIL charge in respect of the proposed development if the development was permitted. However, on the balance of evidence, I am satisfied that the contribution sought by the Council would meet the three tests set out in paragraph 204 of the Framework and Regulation 122 of CIL.
16. In this case, there is no secure means before me such as an obligation under Section 106 of the Town and Country Planning Act 1990 in respect of any contribution towards the provision of school places for me to consider and it would not be appropriate to seek to secure the obligation via condition given the guidance in the Planning Practice Guidance³ and therefore in its absence, on this issue the proposal would be unacceptable. I conclude that the proposal would fail to make adequate provision towards education in the area. Consequently, the proposal would conflict with Policies DC29 and DC72 of the DPD and Policy 8.2 of the London Plan.

Other matters

17. I have considered the comments regarding the accessibility of the appeal site to public transport and noted the bus stop outside of the site during my visit. I have also had regard to the provision of car parking within the appeal site. In addition, I have taken into account the comments regarding the need for housing in the area and restrictions which arise due to the Green Belt and Conservation Areas and regarding garden developments generally in contribution towards the supply of housing. These matters do not however lead me to a different conclusion.
18. The appellant has referred to paragraphs 49 and 197 of the Framework and the presumption in favour of sustainable development. The Framework in paragraph 7 sets out the three dimensions of sustainable development which perform economic, social and environmental roles. In paragraph 8 the Framework sets out that the roles should not be undertaken in isolation. Consequently, given the harm found in respect of the character and appearance of the area, living conditions and infrastructure provision, I do not consider that the appeal scheme meets the social and environmental dimensions of sustainable development.

Conclusion

19. For the above reasons and having considered all matters raised, I conclude that the appeal should be dismissed.

Philip Lewis

INSPECTOR

³ PPG Paragraph: 010 Reference ID: 21a-010-20140306