
Appeal Decision

Site visit made on 16 May 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 07 June 2017

Appeal Ref: APP/B5480/W/17/3170645

127 South End Road, Rainham, Essex RM13 7XS

- 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 Ross Francis against the decision of the Council of the London Borough of Havering.
 - The application Ref P1682.16, dated 12 October 2016, was refused by notice dated 9 December 2016.
 - The development proposed is the construction of a new dwelling attached to No 127 South End Road, Rainham, RM13 7XS. New dwelling to be one bedroom.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In the Council's second reason for refusal, reference is made to Policy DC31 of the London Borough of Havering Core Strategy and Development Control Policies Development Plan Document 2008 (the DPD) which relates to cemeteries and crematoria. The correct policy reference should have been Policy DC32 of the DPD which relates to the road network. Nonetheless, Policy DC32 has been cited within the Council's delegated officer report and appeal statement. To mind, a typographical error has occurred during the drafting of the decision notice. The appeal has therefore been determined on the basis of Policy DC32 of the DPD.

Main Issues

3. The main issues of the appeal are the effect of the proposal on:
 - (i) the character and appearance of the surrounding area;
 - (ii) highway safety, with particular regard to on site car parking provision; and,
 - (iii) whether the proposal makes appropriate provision for infrastructure, with particular regard to school places.
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Reasons

Character and appearance

4. The appeal site is an end of terrace bungalow, finished in a light render similar to that of the neighbouring dwelling. A paved forecourt at the front of the dwelling allows off-street parking for at least two cars. The appeal site occupies a relatively prominent corner plot, close to the junction with Ford Lane. The boundary on Ford Lane is well screened due to the presence of both fencing and mature vegetation. The surrounding area is predominately residential in nature, with two small parades of retail units being located in proximity to the appeal site.
5. The rear garden is relatively substantial in size, being laid mainly to lawn and having a paved patio area and an access ramp leading to double patio doors. A narrow lawned area and footpath leading from the front gate to the access ramp is located at the side of the dwelling.
6. The development is proposed to be sited on the narrow lawned area, and would result in a one bedroom dwelling being attached to the side of the existing bungalow. A new end of terrace bungalow would be formed. The rear garden would be subdivided, in order to enable private amenity space for the occupants. The frontage would also be split for separate off-street parking.
7. Currently, the mature vegetation on the side boundary prevents any views of the side elevation of the existing bungalow or that of the rear and side garden areas. It is noted that the proposal involves the removal of this vegetation and therefore an open vista along Ford Lane would result.
8. The use of sympathetic materials and fenestration and also the proposed set-back from the boundary on Ford Lane are acknowledged. Nevertheless, given the plot size and scale of the dwelling, the proposal would appear as an overly dominant and cramped feature in a narrow plot. Notwithstanding the reasonably localised nature of the affects, the removal of the existing vegetation and the cramped appearance of the proposed development would unacceptably harm the character and appearance of the surrounding area.
9. The appellant has drawn attention to a number of examples of developments on corner plots within the locality. However, I have no information relating to the particular circumstances of these developments and, as such, a comparison is of limited relevance in this instance. Accordingly, I have considered the appeal before me on its individual merits.
10. Furthermore, it is accepted that there were no objections to the proposal following consultation by the Council. However, the absence of an objection does not indicate an absence of harm; merely that it has not been identified. Consequently, a lack of objection cannot be relied upon to imply that the development is acceptable.
11. Accordingly, the proposal fails to accord with Policy DC61 of the DPD which, amongst other things, requires development to maintain, enhance or improve the character and appearance of the local area.

Highway safety

12. Due to the presence of the bus stop and the proximity of the junction, no on-street parking is available near to the appeal site. However, on-street parking is available in the nearby Ford Lane. Furthermore, due to relatively spacious forecourts and drives, the majority of parking in and around the appeal site appeared to be off-street, with ample on-street spaces available.
13. The public transport accessibility level is rated as being low and therefore each dwelling should provide between one and a half and two car parking spaces per dwelling. No information has been provided with regard to the proposed parking layout at the front of the site. It is noted that adequate space exists for two vehicles. However, it is not considered that sufficient space exists to enable up to four vehicles to be parked on the forecourt.
14. It is accepted that the observations made during the site visits are only a snapshot in time. However, given the lack of parking restrictions on these streets, it is considered that sufficient on-street parking would be available to safely accommodate any increase in the level of on-street parking likely to arise from the appeal scheme, if adequate on-site parking could not be provided.
15. Accordingly, it is not considered that the proposal would materially impact on highway safety issues. As such, the proposal therefore complies with Policies DC32 and DC33 of the DPD. When taken together these policies, amongst other things, seek to ensure that new development does not result in a level of car parking which gives rise to on-street parking problems.

Infrastructure - School Places

16. Paragraph 204 of the National Planning Policy Framework (the Framework) and Regulations 122 and 123 of the Community Infrastructure Levy (Amendment) Regulations 2015 (the CIL Regs) states that obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
17. Policy DC72 of the DPD seeks to ensure that new development provides for sustainable development through securing contributions towards infrastructure where the appropriate tests are met. Policy DC29 of the DPD is concerned with the provision of primary and secondary education facilities including seeking payments from residential developers for the capital infrastructure of schools required to meet the demands generated by the development. In addition, Policy 8.2 of The London Plan 2016 (TLP) states, amongst other things, that proposals should address strategic as well as local priorities in relation to planning obligations.
18. Within the evidence submitted by the Council, it is acknowledged that as a result of the changes made to the CIL Regs, with regard to pooling of contributions, the Planning Obligations Supplementary Planning Document 2013 (the SPD) is out of date. Nonetheless, the evidence contained within the technical appendices to the SPD is considered relevant. The appendices clearly demonstrate a need for school places across the Borough. Furthermore, submitted evidence demonstrates that no spare capacity exists within the Borough for the demand for primary and early year's school places generated by new development.

19. Paragraphs 17 and 72 of the Framework confirm that planning should take account of and support local strategies to deliver sufficient community and cultural facilities and services to meet local needs. Furthermore, the Government attaches importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.
20. As such, the Council is seeking a contribution of £6000 per net dwelling, a figure which is derived from the SPD and includes 3% of the total sought to monitor the obligations in order to ensure that no more than five contributions would be pooled for individual projects. The Council has confirmed that the contribution would be used on a particular school expansion or new school project.
21. From the evidence before me, a contribution towards education provision is justified and would meet the three tests. The appellant answered 'no' to question H(a) on the planning appeal form. However, the appellant later confirmed that he would be willing to enter into such an obligation and also pay the CIL charge in respect of the proposal if planning permission was granted. Nonetheless, a planning obligation has not been provided within the appropriate timescales as detailed the Procedural Guide – Planning appeals – England 2015¹ (the PGPAE). The PGPAE clearly states that an executed and certified copy of the obligation should be received no later than 7 weeks from the appeal start date and I am not obliged to delay my decision to wait for a completed obligation.
22. In the absence of such an obligation, the question arises as whether the matter could be dealt with by condition. However, the Planning Practice Guidance advises that a positively worded condition should not be used to require payment of money or other contributions. It also advises that a negatively worded condition limiting the development that can take place until an obligation has been agreed is unlikely to be appropriate other than in exceptional circumstances. Such circumstances include more complex and strategically important development, where there is clear evidence that the delivery of the development would be put at risk². These circumstances do not exist in this case.
23. As such, in the absence of an obligation the proposal would fail to make provision for infrastructure and is therefore contrary to Policies DC29 and DC72 of the DPD and Policy 8.2 of TLP.

Conclusion

24. Harm in relation to the highway safety has not been identified. However, the harm in relation to the character and appearance of the area and lack of planning obligation is decisive. Accordingly, for the reasons set out above, and having taken all other matters into account, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR

¹ Procedural Guide – Planning appeals – England 2016 : Deadline for receipt of planning obligations – section N.2

² PPG Paragraph: 010 Reference ID: 21a-010-20140306