



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: 22 June 2017

Appeal Ref: APP/B5480/W/17/317001

1-5 High Street, Romford, Essex RM1 1JU

- 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 Pearl and Coutts against the decision of the Council of the London Borough of Havering.
 - The application Ref: P0988.16, dated 6 June 2016, was refused by notice dated 4 November 2016.
 - The development proposed is the construction of 2 no. residential apartments at roof level (4th Floor).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are the effect of the proposal on:
 - (i) the character and appearance of the surrounding area, including the setting of the Romford Conservation Area and the listed buildings within the Conservation Area; and
 - (ii) whether the proposal makes appropriate provision for infrastructure, with particular regard to school places.

Reasons

Character and appearance

3. The appeal site is a four-storey building sited in a prominent location on the corner of High Street and South Street, adjacent to the Market Place. The building is of a 1930's neo-Georgian design and is currently occupied by commercial units at the ground floor and offices on the upper floors. From the submitted evidence, it is noted that applications have been approved for residential use on the second and third floors. The surrounding area is characterised by a mix of both commercial and retail uses.
4. The London Borough of Havering Romford Conservation Area Character Appraisal and Management Proposals confirms that the Romford Conservation Area (the Conservation Area) includes the Market Place, High Street, North Street and part of South Street. Apart from the Church of St Edward the Confessor and the buildings on its south west side along the east side of North Street, only the front facades of the properties in the above listed streets are included within the Conservation Area.

5. The main purpose of the designation is to protect the group of historic buildings at the west end of the Market Place, which are the Church of St Edward the Confessor, Church House, 7 Market Place, Lloyds Bank, The Lamb Public House and the Golden Lion Public House. Furthermore, the special interest of the Conservation Area is identified as also including the crossroads at the junction of North Street, South Street, High Street and the Market Place. A number of the buildings within the Conservation Area are also listed and therefore are important components of the Conservation Area. The listed buildings include the Church of St Edward the Confessor, Church House, the Lamb Public House and the Golden Lion Public House.
6. As previously noted, only the front façade of the host building is within the Conservation Area boundary. However, paragraph 129 of the National Planning Policy Framework (the Framework) requires consideration of the effects of development on the setting of heritage assets, including Conservation Areas. Paragraph 132 of the Framework acknowledges that the significance of a heritage asset can be harmed by development within its setting. Accordingly, I have had special regard to the desirability of preserving the setting of the Conservation Area. Furthermore, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to preserving listed buildings including their settings.
7. When taken together, amongst other things, Policies CP17, CP18, DC61 and DC68 of the London Borough of Havering Core Strategy and Development Control Policies Development Plan Document 2008 (the DPD) state that development must preserve the character or appearance of the locality, including conservation areas. In relation to listed buildings, Policy DC67 of the DPD confirms that, amongst other things, development must not adversely affect a listed building or its setting.
8. It is accepted that the designation for the Conservation Area is based on its historic significance rather than a defined architectural character with cohesive materials and design features. As such, the heights and styles of the roof lines along South Street and Hugh Street are varied. In addition, the proposal would not be visible when standing in front of the host building.
9. Nevertheless, the proposed two units would span almost the whole length of the roof top. This would introduce a substantial structure onto the roof top and, given the use of modern materials and fenestration, would visually stand apart from the host building. Despite being set back from the top of the roof by approximately 1.2 metres, the proposal would result in the host building becoming the tallest building at the crossroads.
10. The proposal would therefore be overly prominent in views when looking in a southerly direction along North Street and within the Market Place when looking westwards towards the crossroads and would dominate the junction. In addition, the proposal also includes two balcony areas for each unit. Whilst the balconies would be located behind the parapet which is created by the tiled mansard roof, approximately 1.1 metres of the balconies would remain visible. As such, the introduction of such amenity space on the front facing elevations would be uncharacteristic of the predominately retail and commercial setting. Any additional domestic paraphernalia, such as seating or washing lines, would further erode the characteristics of the locality.

11. For the reasons set out, the proposal would have a negative impact on the character and appearance of the locality and would detract from views into, and out of, the Conservation Area as well as those from, and to, the listed buildings. Consequently, the proposal would thus detract from the settings of the Conservation Area and the listed buildings which are of significance to the area's heritage.
12. Paragraph 131 of the Framework indicates that the desirability of sustaining and enhancing the significance of heritage assets should be taken into account in determining planning applications. For the purposes of paragraphs 132 to 134 of the Framework, the proposal would lead to less than substantial harm to the significance of the designated heritage assets. The benefits which arise from the proposal concern the provisional addition of two units of accommodation. However, it is not considered that the public benefits of a modest addition to local housing supply would outweigh the identified harm.
13. The lack of objection to the proposal is noted. However, the absence of an objection does not indicate an absence of harm; merely that it has not been identified. A lack of objection therefore cannot be relied upon to imply that the development is acceptable. Consequently, the proposal fails to accord with Policies CP17, CP18, DC61, DC67 and DC68 of the DPD, Policies 7.4, 7.6 and 7.8 of The London Plan (TLP) and the London Borough of Havering Heritage Supplementary Planning Document 2011. When taken together, amongst other things, these policies and guidance require development to maintain, enhance or improve the character and appearance of the local area, including the setting of heritage designations.

Infrastructure – school places

14. 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.
15. 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.
16. 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.

17. 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.
18. As such, the Council is seeking a contribution of £6000 per unit, 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. Therefore a contribution of £12000 (2 x £6000) is requested by the Council, with the contribution being used on a particular school expansion or new school project.
19. From the evidence before me, a contribution towards education provision is justified and would meet the three tests. It is noted that the appellant has stated that he would be willing to enter into a Unilateral Undertaking. 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
20. In the absence of such an obligation, the question that arises is 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.
21. 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.

Other Matters

22. The concern raised by the appellant in relation to the handling of the application by the Council in terms of the delay in determination and change in staffing is noted. However, this is a procedural issue which does not concern the planning merits of the case. Accordingly, I have not attached any weight to this matter.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, 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