
Appeal Decision

Site visit made on 27 June, 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: 21st July, 2017

Appeal Ref: APP/B5480/W/16/3165731

280 Main Road, Gidea Park, Romford, Essex, RM2 6LU

- 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 J Toye against the decision of the Council of the London Borough of Havering.
 - The application Ref: P1641.16 dated 4 October, 2016 was refused by notice dated 5 December, 2016.
 - The development proposed is described as 2 No. detached four-bedroom houses with attached garages – sub-division of garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council in its statement confirms that there is an error in the decision notice, and that Reasons 1 and 2 have been combined and repeated, and confirms the four separate reasons for refusal. Accordingly main issues in this case are:-
 - the effect on the character and appearance of the area;
 - the effect on the living conditions of neighbouring occupiers in respect of noise and disturbance, outlook, light, and overlooking and privacy; and
 - whether the proposal makes adequate provision towards educational infrastructure in the borough.

Reasons

Character and appearance

3. No 280 Main Road sits in an area of substantial detached and semi-detached houses which, although often closely spaced along the road frontage, by virtue of generous front and rear gardens, enjoy a generally open and green setting. This character is reinforced by the presence of grass verges and mature street trees. Nos 280 to 286 are set in a loose crescent, behind a thickly planted area of landscaping which includes a number of trees protected by a tree preservation order. There is a shared access to the group by way of an informal gravelled drive.
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4. No 280 itself is a large detached house, set towards the front of its plot and has an extremely generous rear garden. It sits within the Gidea Park Special Character Area, in which open spaces contribute towards its special qualities.
5. The appeal proposal would create two houses in the rear garden of the site, in an area currently occupied by a pool and tennis court. The proposed dwellings would be of two storeys, and relatively large, being of four bedrooms and having attached garages. They would also require the introduction of a large area of hard surfacing into the area to provide vehicular access and turning space.
6. It appears to me therefore that although not visible from the street, they would nonetheless introduce a significant built and urbanising element into the formerly open garden space, which would conflict with the prevailing pattern of development in the area, and appear incongruous in that setting. The development would thereby cause harm to the overall open and green suburban character of the area.
7. The proposal would therefore fail to comply with Policies DC61 and DC69 of the LDF Core Strategy and Development Control policies DPD 2008 (the CS) which require new development to maintain, enhance or improve the character and appearance of the local area, including the character and appearance of the Gidea Park Special Character Area.

Living conditions

8. The proposal would involve the demolition of an existing garage and construction of a driveway running along the boundary of the appeal site where it adjoins the rear garden of No 282. It would be a relatively long drive, containing a turning space for vehicles. While the presence of a high fence, footpath and some landscaping would provide some form of buffer between the access drive and rear garden of No 282, the proposal would nonetheless introduce vehicle movements and manoeuvring associated with two dwellings into an area which had hitherto been garden, and in close proximity to an existing garden area. It appears to me therefore that there would be harm to the living conditions of the occupiers of No 282 in terms of the noise and disturbance generated.
9. Due to the set back of the proposed dwellings from the flanking boundaries of the site, and the generous plots of dwellings on either side, there would be good levels of separation from neighbouring properties. Due to their orientation, they would not directly face either the front or rear elevations of existing dwellings. In respect of No 282, in addition to the separation distance and orientation there would be a high fence and landscaping. It appears to me therefore that, notwithstanding the height of the proposed dwellings, the proposal would not give rise to harmful levels of overlooking, a harmful outlook, loss of privacy or loss of light to these dwellings.
10. Where the proposed development sits close to the boundary with properties on Castellan Avenue, it would be close to and north of the end of their large gardens, and so unlikely also to have a harmful effect on those properties in terms of overlooking, privacy or loss of light.
11. However, although I have found that there would be no harm to neighbouring occupiers with regard to outlook, light, overlooking or privacy; this does not

alter my conclusion with regard to noise and disturbance. I therefore conclude that the proposal would be in conflict with policy DC61 of the CS, which seeks to resist development which has an unacceptable effect on the amenities of existing properties.

Provision towards educational infrastructure

12. Policy DC72 of the CS seeks to ensure that new development is in line with the principles of sustainable development through securing contributions towards infrastructure to mitigate the effects of that development. It includes provision for education facilities in relation to Policy DC29 of the CS. Although it pre-dates the National Planning Policy Framework (the Framework) this policy is broadly consistent with it, as 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).
13. The Council has supplied a number of recent appeal decisions¹ in which Inspectors have concluded that the approach of Policy DC29 combined with the Council's monitoring arrangements in relation to payments would not engage the provision of Regulation 123 of the CIL Regulations that a planning obligation cannot constitute a reasons for granting permission where it would result in funding infrastructure development by means of pooled contributions, particularly following the recent changes to Planning Practice Guidance.
14. Although the Council accepts that its Planning Obligations Supplementary Planning Document is now out of date, it still considers the evidence contained in the technical appendices to the SPD to be relevant. These indicate the a clear lack of capacity in the Borough to accommodate demand for school places at primary, secondary and early years levels generated by new development.
15. The appeal scheme is for two dwellings of family size, and would be likely to generate material additional demand for school places. In that context, the financial contribution of £12,000, which would be put towards educational provision, does not appear to be disproportionate.
16. I am therefore satisfied that the contribution would meet the three tests set out in paragraph 204 of the Framework and CIL Regulation 122, which requires obligations to be 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. The appellant does not dispute the need for such a contribution. However, there is no obligation before me. As an obligation would be needed to make the development acceptable in planning terms, and no obligation has been supplied, and as it would not be appropriate to secure the obligation by way of a condition, in the absence of such an obligation I conclude therefore that the development would fail to make adequate provision towards education in the area, and would consequently conflict with Policies DC29 and DC72 of the CS, and with Policy 8.2 of the London Plan in relation to planning obligations.

¹ APP/B5480/W/16/3160652; APP/B5480/W/16/3164262; APP/B5480/W/16/3164542; APP/B5480/W/17/3167886; APP/B5480/W/16/3157634

Other matters

18. The appellant has raised issues relating to the handling of the planning application, but these are not matters for my determination, which relate solely to the planning merits of the case.

Conclusion

19. 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