
Appeal Decision

Site visit made on 13 June 2017

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 10 August 2017

Appeal Ref: APP/B5480/W/17/3167109

R/O 13 & 15 Parsonage Road, Essex RM13 9LW

- 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 Sid Aldis & Billy Griffiths against the decision of the Council of the London Borough of Havering.
 - The application Ref P1842.16, dated 30 September 2016, was refused by notice dated 10 January 2017.
 - The development proposed is demolition of existing garage and construction of single storey dwelling with private amenity and off street car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - (i) the effect of the proposal on the character and appearance of the area;
 - (ii) whether the development should make a contribution towards education infrastructure; and,
 - (iii) the effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site, whilst to the rear of 13 and 15 Parsonage Road, fronts Davies Close. Davies Close is characterised by two storey houses that front the street. The building lines are set back to create generous frontages and, with limited boundary treatments, Davies Close has an open and spacious feel.
 4. The proximity of the proposed dwelling to the street would provide little frontage. The area for parking creates some, but it has less of a connection with Davies Close to have an impact. The lack of frontage, together with the prominence of the dwelling in the street because of its forward position, would result in an unduly dominant and incongruous development which would be harmful to the open and spacious character described. The single storey nature of the appeal proposal would do little to mitigate this.
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5. The rear garden proposed would not enjoy the same space that has been afforded to the rear gardens of existing properties within the area. When taken together with the small frontage, the development would appear cramped and out-of-keeping with the more generously spaced plots within the area.
6. In all, therefore, the development would be contrary to policy DC61 of the Development Plan Document (DPD)¹ and the Residential Design Supplementary Planning Document (the Residential SPD)² which require development to respond to and integrate with existing patterns of development and, therefore, maintain, enhance or improve the character and appearance of the local area.

Education infrastructure

7. Policies 8.2 of the London Plan³ and DC72 of the DPD encourage the use of financial contributions to address strategic and local development priorities and help provide the infrastructure that is necessary to mitigate the impact of development. Policy DC29 of the DPD, together with the Supplementary Planning Document on Planning Obligations⁴ (the SPD), are more specific, supporting payments for school infrastructure, including primary and secondary education facilities. These policies are broadly consistent with paragraph 203 of the National Planning Policy Framework (the Framework) which explains that planning obligations may be sought to mitigate the impacts of new development.
8. There is no evidence before me to suggest that the appeal proposal would generate any specific demands on specific schools, such that the contribution sought could reasonably be regarded as being directly related to it. Indeed, the evidence implies that the financial contribution has less to do with mitigating the impact of the development than it has with securing a generic contribution towards unspecific education infrastructure projects in the area.
9. The appellant notes an appeal decision⁵ which cites the Written Ministerial Statement (WMS) of 28 November 2014. Following the Court of Appeal judgement dated 13 May 2016, legal effect is given to the policy set out in the WMS. It explains that section 106 planning obligations should not be sought to secure contributions from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000 sqm (gross internal area). Paragraphs 013-017, 019-023 and 031 of the Planning Practice Guidance (the Guidance) elaborate, stating that affordable housing and tariff style contributions should not be sought from the small scale developments identified.
10. I am required to determine the appeal in accordance with the development plan unless material considerations indicate otherwise. The WMS, as an expression of Government planning policy, is a material consideration to which I must give considerable weight.

¹ Havering London Borough, Core Strategy and Development Control Policies Development Plan Document (Adopted 2008)

² Design for Living, Residential Design Supplementary Planning Document (Adopted 2010)

³ The London Plan, The Spatial Development Strategy for London, Consolidated with Alterations since 2011 (March 2016)

⁴ Planning Obligations, Supplementary Planning Document (February 2013). London Borough of Havering Local Development Framework.

⁵ Appeal ref: APP/B5480/W/16/3156253

11. Technical Reports 1 and 2⁶, which inform the SPD, identify the standard charge for application per dwelling; in this case a sum of £6000 towards education provision. The £6000, as acknowledged within the Council's Statement, is from a tariff style based list. Whilst this list is not a charging schedule, it is a figure derived from a fixed sum of £20,444 per dwelling towards infrastructure and discounted to take account of viability. The Guidance explains that tariff style contributions are those that contribute to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The financial contribution would be used in this way, to fund the provision of general education infrastructure.
12. In my judgement, therefore, the £6000 towards education infrastructure would be a tariff style contribution. As the development is for less than 10 dwellings, I find, in line with the WMS and the Guidance, that a financial contribution towards education facilities within the area would not be appropriate.
13. I am also mindful of the pooling restrictions set out in the Community Infrastructure Levy (CIL) Regulations. These prohibit the pooling of more than five planning obligations towards a single infrastructure project. The Council states that it has a financial monitoring system which ensures that no more than five separate contributions are used on any particular project. Nonetheless, while noting the Council's rationale for not wishing to identify a project at this stage, in the absence of any clarity about what the obligation would be spent on, there can be no certainty on the basis of the evidence before me that the obligation sought would not fall foul of the pooling restrictions.
14. I am aware of recent appeal decisions that conclude differently on this matter. However, the WMS does not appear to have been a consideration in these appeals and, therefore, I do not consider them to set precedents that I am bound to follow. In short, there is an absence of any firm evidence linking the effects of the appeal with an adverse impact upon a specific education facility; there is a failure to demonstrate that the obligation would meet the CIL Regulation pooling test; and a material consideration, in the form of the WMS is powerful enough in this instance to override relevant development plan policy. I conclude, therefore, that there is no requirement for the appeal proposal to make a contribution towards education infrastructure and as a result it would not conflict with policies 8.2 of the London Plan, DC72 and DC29 of the DPD or the SPD.

Living conditions

15. No 24 and No 25 Davies Close are frontage properties that are set back from the street with windows at ground and first floor level that overlook it. Views of the proposed development, from the internal living spaces at No 24 and No 25, would be at an oblique angle and at a distance from it. Whilst I have no doubt that the development would be visible from No 24 and No 25, these factors mean that the proposal would not be so dominant within views that it would have a discernible adverse effect on the living conditions of neighbouring occupiers.

⁶ Planning Obligations Supplementary Planning Document: Technical Report 1: Assessment of Infrastructure Costs (adopted February 2013) and Technical Report 2: Viability Assessment (adopted February 2013)

16. In all, therefore, I conclude that the development would not have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to outlook. Whilst there is no specific reference to outlook within policy DC61 of the DPD, the Residential SPD seeks to ensure that development does not appear overbearing or unduly dominant. In light of my findings, the development would not be contrary to the Residential SPD.

Other matters

17. The proposed development would be in an existing residential area and would contribute to local housing supply. Nonetheless, there is no evidence before me to suggest that the Council is unable to demonstrate a five-year supply of deliverable housing sites. The contribution that one dwelling would make to housing land supply overall, therefore, is modest and the alleged benefit of the proposed dwelling's location does not justify granting planning permission for a scheme that is deficient in other respects.
18. It is correct that the development should overlook the street to offer natural surveillance and therefore reduce the possibility of criminal activity. However, I have no details before me to suggest that crime in this area is a problem which the development would help to address.
19. The appellant has worked to overcome previous reasons for refusal and design a dwelling to complement the form and scale of surrounding buildings. Nevertheless, the harm found relates in part to the position of the building on the site, which matters of form and architectural details do not overcome.
20. I have considered other developments presented by the appellant. Where site plans have been provided and, therefore, reasonable comparisons can be drawn with the development proposed, there are material differences in site layouts such that these examples cannot be considered as precedents.

Conclusion

21. I have found that a contribution towards education infrastructure is not required and that the development would not have a harmful effect on the living conditions of neighbouring occupiers. Nonetheless, these factors are outweighed by the harm that I have found to the character and appearance of the area. This factor is decisive, particularly within the context of the Framework, which promotes good design and development that is well integrated into the built environment.
22. In all, therefore, I find that the proposed development would be contrary to the development plan. Thus, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

R Walmsley

INSPECTOR