
Appeal Decision

Site visit made on 26 June 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 4 September 2017

Appeal Ref: APP/B5480/W/17/3167736

Hexagon House, 5 Mercury Gardens, Romford RM1 3EL

- 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 John Smith against the decision of the Council of the London Borough of Havering.
 - The application Ref P1249.16, dated 26 July 2016, was refused by notice dated 16 December 2016.
 - The development proposed is erection of seventy one flats on top of the existing building.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Smith against the Council of the London Borough of Havering. This application is the subject of a separate Decision.

Procedural Matter

3. A signed and completed S106 Unilateral Undertaking (UU) has been submitted by the appellant. It would secure contributions towards affordable housing and education and makes provision for car free housing and I return to this matter later.

Main Issues

4. The main issues are the effect of the proposed development on:
 - (i) the character and appearance of the area;
 - (ii) the living conditions of the future occupants of the proposed flats with particular regard to the standard of accommodation and amenity space; and
 - (iii) whether the proposal makes appropriate provision for infrastructure in the area.

Reasons

Character and appearance of the area

5. The appeal site comprises a 4/5 storey residential building within Romford Town Centre with associated car parking situated at the south western corner of the A1251 Ring Road roundabout adjacent to its junction with Western Road. The building has a roughly U-shaped footprint presently measuring about 20.4m in height to the highest point of the buildings, the top of which contain plant and equipment and lift housings that are set back from the main brick built elevations. To the west of the site is the Romford Leisure centre currently under construction that measures about 24m in height and then a 5 storey office building (Sovereign House). A 9 storey high apartment building (Halyard Court) and a 9 storey high office building (Lambourne House) are located further to the west leading towards the town centre.
6. To the east is a three storey Beefeater/ Premier Inn building and to the north east on the opposite side of the roundabout is a largely two storey flat roofed Wilkinson's retail store. To the north west of the site is a 6 level multi-storey car park which is materially lower in height than the main part of the existing buildings on the appeal site and beyond that is the Liberty shopping centre to the north of the site.
7. Therefore there is some variation in the scale and height of the buildings in the area which provide mixed urban grain and varied townscape, with some notable tall buildings immediately to the west and north of the site, including Mercury House and The Axis. Hexagon House being situated on a corner plot has even more expansive grounds with landscaped planting to the front and parking to the rear, which add to the open character and appearance of the street scene.
8. The proposal is for the erection of 71 flats on top of the existing building by the addition of five floors, with the top two floors set back from the front edge of the roof of the existing building. The proposal would increase the overall height of the building to 31m.
9. Policy ROM19 of the Romford Area Action Plan Development Plan Document (AAP) provides details of locations where planning permission for buildings of 6 storeys or greater, or over 18m above ground level, will normally only be granted, which includes along the Ring Road at the junction of Western Road that covers the appeal site. All tall buildings should be of exemplary high quality and inclusive design and must comply with policy guidance as set out in Policy DC66 of the London Borough of Havering Core Strategy and Development Control Policies and Development Plan Document 2008 (CS).
10. CS Policy DC66 seeks, amongst other things, to ensure that the proposed density of tall buildings is suited to the site and to the wider context in terms of proportion, composition, relationship to other buildings, streets, public and private open spaces, the waterways or other townscape elements and tall buildings are attractive city elements as viewed from all angles and where appropriate contribute to an interesting skyline.
11. Therefore, although the proposed development would be situated in a location where taller buildings are permitted, I consider that, given the prominent

corner location close to the A1251 Ring Road roundabout junction and the scale of the buildings opposite the site, the additional 5 storeys of accommodation, even with the setbacks on the top two levels, would result in a significant addition relative to the main building and would compromise the sense of space and openness in the streetscene.

12. Although it would have a comparable height to the adjacent new blue cube leisure centre and other taller buildings in the area, the scale, horizontal emphasis and form of the ten storey development would result in a building with a single block like appearance that would, in my view, be substantially out of character with the varied height and scale of the properties in the immediate vicinity. These shortcomings would be exacerbated by the proposal's prominent position, which would be visible from a number of public vantage points from the surrounding roads. As such, I consider the development would result in an incongruous and out-of-keeping addition that would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm the open character and appearance of the area.
13. I have considered the appellant's argument that the scale and design of the proposed development would accord with the relevant planning policies and would be in keeping with the appeal building, existing nearby tall buildings and the area. Whilst the use of matching materials, fenestrations and the setbacks to the upper levels would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
14. Consequently, I conclude that the proposal would adversely harm the character and appearance of the area. In this respect it would conflict with CS Policies DC61 and DC66 and AAP Policy ROM19. These policies require, amongst other things, that development maintains, enhances or improves the character and appearance of the local area. It would also conflict with the Residential Design Supplementary Planning Document (SPD) 2010 which requires new residential development to respond to the distinctive local building forms and patterns of development, and respect the scale, massing and height of the surrounding area.

Living conditions of the future occupants of the proposed flats

15. The proposal would provide 45 one-bed units, 24 two-bed units and 2 three-bed units of additional accommodation. Amenity space in the form of balconies would be provided to the proposed flats with the exception of two units on each of floors 6, 7 and 8. The existing building provides 115 two bedroom flats.
16. In assessing schemes for residential development, the Residential Design SPD seeks to improve the quality of new residential schemes by providing clear design guidance for residential development proposals. Paragraph 5.3 of the SPD states that "The quality of design is important for all development, but particularly for higher density development, and all proposals should respond positively to reinforcing or improving local character. Failing to do this by simply squeezing standard house types together and reducing amenity space standards will not provide a quality living environment."
17. Section 10.1 of the SPD states that the provision of amenity space is a key consideration for new residential developments and every home should have access to suitable private and/or communal amenity space through one or

more of the following: private gardens, communal gardens, courtyards, patios, balconies and roof terraces.

18. Section 10.1 of the SPD goes on to state that the design and provision of private amenity space is particularly important in flatted schemes. Balconies should be incorporated into all developments and should as a minimum, be 1.5m in width and 5 sqm in overall size, to allow adequate space for a table and chairs. It also states that on flatted schemes, both balconies and communal amenity space will be expected. However, it suggests that the SPD does not prescribe fixed standards for private amenity space and will not adopt a rigid approach to space standards that can restrict creative design and layout of new residential development, particularly on smaller, awkward development sites.
19. The proposal would not meet the minimum standard in terms of balconies/private amenity space for each unit. Two units on floors 6, 7 and 8 would not have any amenity space in the form of either a balcony or terrace. The proposed scheme would not include any communal amenity space and, overall, there would be a development of 186 units in total without any communal amenity space. Cumulatively, the combination of the number of units proposed and the failure to provide minimum amenity space standards would in my view result in a poor quality living environment.
20. The guidance in the SPD does contain a caveat in that proximity to public open space will be considered when assessing the adequacy of provision of private amenity space only where design and layout is of sufficient high quality. In this respect, the appellant states that the nearest public park, Lodge Farm Park, would be about 400m away and easily accessible. However, the future occupants would need sufficient space within the flats to carry out leisure and household activities such as hanging out their washing if they wish, particularly during the summer months. In the absence of both adequate amenity space within the flats and communal space, the nearest public park and leisure centre would not be viable alternative options in this case.
21. I have considered the appellant's arguments that the majority of the units would meet or exceed the amenity space standard and that the proposed development on this challenging town centre site would provide a creative and innovative overall design with quality and usability spaces. I also note the appellant's comments regarding family occupation and that only two family units are proposed in the appeal scheme. However, these factors do not overcome fundamental shortcomings in the development as proposed and the adverse effects outlined above.
22. I also note the appellant's comments regarding the lack of communal space and limited private amenity space provided for the units in the apartment building at Halyard Court. Whilst this maybe so, this does not set a precedent for such an inappropriate development in this location for the reasons set out above. I therefore accord this matter limited weight.
23. Consequently, I conclude that the proposal would result in harm to the living conditions of the future occupiers of the proposed flats with particular regard to standard of accommodation and amenity space. The development conflicts with CS Policies DC61 and DC66, AAP Policy ROM19 and the SPD. These policies and guidance seek, amongst other things, to ensure that new housing

development should be of the exemplary highest quality and inclusive design internally and externally and provide high quality and usable amenity space to deliver a quality living environment.

Infrastructure

24. Refusal Reason 3 relates to the appellant's failure to make a contribution towards school places. There is a signed and completed UU that has now been provided by the appellant. It requires the appellant to make financial contributions totalling of £426,000 (71 x £6,000) towards education provision and £1 million pounds (£1,000,000.00) towards affordable housing provision. There is also a car free housing requirement that exempts any future occupiers (except holders of blue badges) from applying for and purchasing parking permits for their own vehicles for any existing, revised or new permit controlled parking scheme.
25. CS Policy DC72 seeks to secure the provision of contributions through planning obligations in order to ensure that new development follows the principles of sustainable development. This includes contributions to local education infrastructure, in accordance with CS Policy DC29, to help to meet the additional needs generated by new residential development. Whilst these policies pre-date the National Planning Policy Framework (the Framework), they remain broadly consistent with paragraph 203 which sets out that planning obligations may still be sought in order to mitigate the impacts of new development. Additionally, paragraph 204 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations (CIL) outline planning obligations must meet the three tests. These require planning 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.
26. The Council's Planning Obligations Supplementary Planning Documents, (Planning Obligation SPDs) Technical Report 1: Assessment of Infrastructure Costs 2013 and Technical Report 2: Viability Assessment 2013 set out how the Council has assessed contributions for a wide range of infrastructure. However, with the exception of education contributions, all of these are now funded through Community Infrastructure Levy (CIL) payments. The SPD Technical Reports advise that in relation to education provision the cost of mitigating the effects of new development equates to £6,000 per dwelling, which is the contribution sought by the Council in this case. The appellant states within the grounds of appeal that the Council cannot justify a separate contribution through a S106 when they can fairly, reasonably and legitimately deal with all the infrastructure requirements arising from the proposal through CIL contributions.
27. 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. Moreover, there is a clear shortage of primary and secondary school places in the area where the development would be located¹. Although the scheme is for 71 flats, some of them would be family sized and likely to generate material additional demand for school places. It is the Council's intention to pool this contribution for a

¹ Commissioning Plan for Education Provision 2015/16-2019/20

specific project to expand an existing school or provide a new school. With regard to Regulation 123 of CIL, the Council has confirmed that it will ensure, through its monitoring arrangements, that no more than five contributions are pooled. There is no evidence before me to suggest that the necessary provision would be made by CIL contributions.

28. This approach is supported by paragraphs 17 and 72 of the Framework which state that planning should take account of and support local strategies to deliver sufficient community and cultural facilities and services to meet local needs, and that the Government attaches great importance to ensuring sufficient choice of school places is available to meet the needs of existing and new communities. It is also relevant to note the recent appeal decisions² referred to by the Council which support the principle of securing such contributions to mitigate the effects of residential development on education provision in the borough. I therefore consider that the proposal would make adequate provision towards education in the area.
29. Support for the affordable housing contribution in the UU is set out in the Local Planning Authority appeal statement and the Council's independent review of the appellant's development viability report³. As the significant need for affordable housing in the Borough is not in dispute between the main parties, the affordable housing contribution based on the evidence before me would, in my view, accord with the provisions of Regulation 122 of the CIL and the tests for planning obligations set out in the Framework.
30. In terms of the car free housing requirements, the UU would not only apply the restrictions on the initial occupiers of the flats but would also impose enforcement covenants on future purchasers and tenants and would maintain a management system approved by the Council. However, it is not possible to enforce car free housing under a S106 obligation as it does not relate to the use of the land. Given the site's location, I consider that harm would result if it were not car free and that harm would be so significant that permission should be refused if the development were not car free.
31. Consequently, I conclude the car free housing requirements, would not accord with CS Policy DC72 and the provisions of Regulation 122 of the CIL and the tests for planning obligations set out in the Framework. I have therefore attached little weight to the UU in reaching my decision.

Other matters

32. I note the other developments in the area drawn to my attention by the appellant. However, the examples of residential developments granted at 69 Oldchurch Road and the mixed use development at Roneo Corner are of a different scale and form to the appeal scheme and are located outside the designated Romford Town Centre boundary. On the basis of the limited evidence provided, I am not convinced that their circumstances are compellingly similar to the appeal proposal. I therefore accord them limited weight as precedents in this case.

² APP/B5480/W/16/3157634, APP/B5480/W/16/3160652, APP/B5480/W/17/3167886

³ Bespoke Property Consultants Review of the Development Viability Report October 2016

33. The appellant considers that the proposal forms a sustainable form of development that would contribute to the supply of housing in the area, particularly the significant shortage of affordable housing, and would make efficient use of the land in a highly accessible location. However, while I note the appellant's view that the scheme's design would amount to environmental benefits, I have found above that taken overall the development would harm the area's character and appearance, the living conditions of the future occupiers and would fail to make appropriate provision for infrastructure in the area. This harm would conflict with the environmental dimension of sustainable development and, in my view, would be sufficient to outweigh the scheme's benefits. The proposal would not therefore amount to sustainable development in the terms of the Framework.
34. I have noted the objections raised by local residents to the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

35. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR