



Appeal Decision

Site visit made on 21 November 2017

by R A Exton Dip URP MRTPI

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

Decision date: 30th November 2017

Appeal Ref: APP/B5480/W/17/3181904

6 Hamilton Drive, Romford RM3 0UU

- 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 Robert Breadon against the decision of the Council of the London Borough of Havering.
 - The application Ref P0718.17, dated 26 April 2017, was refused by notice dated 21 June 2017.
 - The development proposed is described as the demolition of the existing pair of semi-detached 3 bedroom houses (2 and 4 Hamilton Drive), and the garages for No 4 and the garage for No 6 and the erection of 5 No 3 bedroom family houses with secure off street car parking for 10 cars and associated private gardens.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on; i) the character and appearance of the area; ii) living conditions of future occupiers of the proposal; and, iii) whether a financial contribution towards the provision of education facilities in the borough is necessary.

Reasons

Character and appearance

3. The appeal site is situated on the south eastern side of Hamilton Drive which is mainly comprised of detached and pairs of semi-detached 2-storey dwellings. These properties have very long rear gardens containing varying levels of vegetation including mature trees. The rear gardens are apparent from the rear of many nearby properties and from Hamilton Drive, when viewed through the spaces in between dwellings and over single storey garages. As such, I agree with the appellant's assessment of the areas spacious and verdant character.
4. Whilst the frontage development forming part of the proposal would follow a similar siting to nearby dwellings, the 2 dwellings proposed to the rear would introduce a very different form of development. The siting of 2 dwellings in a backland position would contrast harshly with the established pattern of frontage development prevalent in the area. The proposed access off Hamilton Drive would open up a view into the site and make its presence apparent. There would also be views of the proposal in between properties fronting Hamilton Drive.

5. I note the differences between this proposal and the 2 previous proposals dismissed on appeal on the site. However, even taking into account the reduction in amount and scale of development, I consider that the proposal would not reflect the pattern of development that forms the local distinctiveness. It would appear as an incongruous and uncharacteristic intrusion into the spacious character of the area.
6. I note the development to the rear of 50-80 Hamilton Drive referred to by the appellant. However, this is within an area of different character to the appeal site. Here, properties do not share the appeal sites spacious character and consequently the development referred to is not directly comparable. As the appellant identifies, there is a variety of styles of development in the wider area. This does not however detract from the particular character of the appeal site and its immediate surroundings.
7. In light of the above I conclude that the proposal would conflict with Policy 61 of the Havering Core Strategy and Development Control Policies Development Plan Document adopted 2008 ('the DPD'). This states that planning permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.

Living conditions

8. The closer of the 2 proposed dwellings set back from Hamilton Drive would almost span the full width of the rear gardens of 2 of the proposed frontage dwellings. Taking account of the relative southerly position of the set back dwelling and the path of the sun, I consider that the rear gardens of the frontage dwellings would be cast in shadow around midday. Occupiers of the frontage dwellings would also be faced with a blank elevation and roof slope when viewed from rear windows and gardens. This would have a dominant effect on their outlook. The combination of these factors would create an unacceptable standard of living conditions for future occupiers.
9. I note the differences in scale and layout of the proposal compared to that considered in the two previous appeals on the site. However, I consider that the effect of the living conditions of future occupiers of the frontage dwellings referred to would not be reduced to an acceptable level by this proposal.
10. In light of the above I conclude that the proposal would conflict with Policy DC61 of the DPD. This states that planning permission will not be granted where the proposal results in unacceptable overshadowing.

Education contribution

11. The Councils second reason for refusal relates to the lack of a legal agreement to secure a financial contribution towards the demand for school places arising from the proposal. The appellant disagrees with the need for a financial contribution, on the basis that it would constitute a 'tariff style contribution'. However, the appellant indicates a willingness to submit a unilateral undertaking as part of this appeal.
12. Policy DC72 of the DPD seeks to ensure that new development makes appropriate provision for infrastructure. Policy DC29 of the DPD deals specifically with the requirements for education. Policy 8.2 of The London Plan adopted 2015 requires proposals to address strategic as well as local priorities in planning obligations.

13. Although the above DPD policies predate the National Planning Policy Framework they are broadly consistent with its aims of considering whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations where the necessary tests are met.
14. The Council acknowledges that whilst its Planning Obligations SPD adopted in 2013 is out of date, it considers the supporting technical reports are up to date for the purposes demonstrating the need for school places.
15. Whilst other contributions are now funded through a Community Infrastructure Levy, education contributions are not and so can be obtained through a Section 106 obligation. The Council seeks £6000 per dwelling and confirms that its monitoring arrangements would ensure that no more than 5 contributions would be used on a specific educational infrastructure project.
16. The Written Ministerial Statement of November 2014 and ensuing change to the Planning Practice Guidance that indicates tariff style contributions should not be sought for developments of ten units or fewer. I have noted the appeal decisions submitted by main parties supporting their respective stances on this matter.
17. The Council state that as the commencement of development is not within their control, they cannot identify a specific project which is directly related to the development. It does however state that the contribution would be used to provide additional school places. This could take the form of the expansion of an existing school or the provision of a new school. The Council would agree to a list of eligible schools being included within a Section 106 obligation.
18. In light of the above I am satisfied that the principle of an educational contribution would be necessary to make the development acceptable in planning terms and directly, fairly and reasonably related to it in scale and kind. It would not be a 'tariff style' contribution as it would be used on a specific project rather than general educational infrastructure in the borough.
19. Although the appellant has indicated a willingness to submit a unilateral undertaking this is not before me. However, as I am dismissing this appeal for other reasons there is no need to consider this matter further.

Conclusion

20. Whilst the proposal would make a limited contribution to boosting housing supply within a generally suitable location in the borough, the harm to character and appearance and living conditions I have identified, and the consequent conflict with policy justifies the refusal of planning permission.
21. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Richard Exton

INSPECTOR