
Appeal Decision

Site visit made on 21 November 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 27th December 2017

Appeal Ref: APP/B5480/W/17/3180949

2 Brooklands Road, Romford RM7 7DX

- 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 Abava Developments Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P2036.16, dated 20 December 2016, was refused by notice dated 25 July 2017.
 - The development proposed is the erection of a 2 storey apartment building to provide 8no. 2 bedroom flats and associated vehicular access, drainage works, landscaping and car parking for 10 vehicles, following the demolition of all existing buildings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2 storey apartment building to provide 8no. 2 bedroom flats and associated vehicular access, drainage works, landscaping and car parking for 10 vehicles, following the demolition of all existing buildings at 2 Brooklands Road, Romford RM7 7DX in accordance with the terms of the application, Ref P2036.16, dated 20 December 2016, subject to the conditions in the schedule attached to this decision letter.

Main Issues

2. The main issues raised by this appeal are the effect the development would have on the living conditions of occupiers of neighbouring residential properties, with particular reference to any overbearing effects which may occur, and whether any effect the development might have on education infrastructure would be satisfactorily mitigated.

Reasons

Neighbours' living conditions

3. The appeal site is largely enclosed by existing two storey residential development and their rear gardens, comprising short terraces on Brooklands Road and Como Street, detached and semi-detached houses on Marshalls Road and a block of flats at Brooklands Close. The site presently contains a range of single storey buildings and a dormer bungalow and is occupied by a car dealership with extensive storage of vehicles.
4. The proposed apartment building would comprise a two storey block with an 'L' shaped plan with gable ends close to the boundary of the site adjacent to Brooklands Close and houses on Marshalls Road. The outlook from the rear

windows of surrounding properties is largely of their rear gardens but also of the appeal site beyond. This would be changed with the replacement of the range of buildings and external car storage with the two storey form of the proposed apartment block and a small single storey cycle store in one corner.

5. The removal of these buildings and the automotive use would improve an aspect of the outlook from surrounding properties. The introduction of a two storey building would be more conspicuous than existing ones, particularly where the gable would be situated close to the rear gardens of 11, 11a and 15 Marshalls Road. However, given its height and separation distances, this two storey built form would not appear overly intrusive or have an overbearing effect, nor would it adversely intrude into the outlook that those, or any other surrounding properties, enjoy. At 7.9m, according to the appellant's figures, its ridge height would result in a broadly similar height to the range of those of surrounding buildings.
6. An Inspector considering an appeal¹ in relation to a previous scheme on the site found that proposal to be a significant and imposing building which would obstruct the outlook from the rear of adjoining properties on Brooklands Road. However, I have noted the material differences, particularly in the height, design and configuration, between that scheme and that before me. Although occupying a similar situation on the site the proposal would have a two storey configuration similar in scale to that of surrounding properties whereas the previous scheme was effectively a three storey building, albeit that the upper floor would have been largely set within a steep pitched roof. The configuration, design and height of the proposed scheme would not give rise to the same harmful effects identified in that previous appeal.
7. The Council calculates that the building would be separated from the rear of properties on Brooklands Road by approximately 23m, a distance over which I do not consider there would be any harmful overlooking or loss of privacy between existing and proposed dwellings. Windows in the proposed building facing properties on Como Street and Marshalls Road would be positioned farther away than this. Bearing in mind the previous Inspector's findings with regards to privacy, I do not consider any harm would arise in this respect. Whilst there is potential for some overshadowing of adjoining gardens to the north west, this would vary in extent throughout the day and year and would not be so extensive as to materially harm neighbours' living conditions.
8. As the development would not unacceptably harm neighbours' living conditions it would consequently accord with Core Strategy² (CS) Policy DC61's amenity provisions and with the National Planning Policy Framework's (the Framework) core planning principle of always seeking to secure a good standard of amenity for all existing occupants of buildings.

Education infrastructure

9. Since the Council made its decision the appellant has provided a Unilateral Undertaking to make a £48,000 contribution towards the provision or enhancement of educational facilities or infrastructure, which the Council were given the opportunity to comment on. Given their size and configuration, the proposed flats could accommodate families with school age children and such a

¹ APP/B5480/W/16/3159580.

² Core Strategy and Development Control Policies Development Plan Document, 2008.

contribution would mitigate the development's impact on education infrastructure, particularly the demand for school places which the Council consider would arise from the development.

10. Consequently, I consider that the contribution would be necessary to make the development acceptable in planning terms, would be directly related to the development and, in light of the Council's evidence in this regard, would be fairly and reasonably related in scale and kind to the development. These are the CIL Regulations³ and Framework⁴ tests that any obligation has to meet for it to be a reason for granting planning permission. The Council's intention is to ensure that no more than five contributions would be pooled for specific projects, an approach which accords with the requirements of the CIL Regulations⁵. I can therefore take the obligation into account. In reaching this view I have had regard to the previous Inspector's findings on a similar matter as well as the numerous appeal decisions the Council has brought to my attention in this regard.
11. Although it predates the Framework and CIL Regulations, CS Policy DC72 states that certain items, including education facilities, may be sought where they satisfy the tests in Circular 05/05⁶. The Framework replaced this Circular but the Circular's tests align with those set out in the Framework and the policy is broadly consistent with the Framework in this respect as a result. The proposal would accord with CS Policy DC72 as the tests would be satisfied. As the residential development proposed would address the demands it would generate by contributing towards capital infrastructure of schools, the proposal would accord with CS Policy DC 29 and London Plan, 2016 (LP) Policy 8.2.

Other Matters

12. Although not a reason for refusal, the Council's statement considers that the proposal would be out of keeping with the character and established pattern of development. However, the two storey scale and appearance would follow that of its surroundings and the elongated block configuration would not sit uneasily with adjoining terraced houses or the adjoining block at Brooklands Close. Whilst its detailed design and appearance would not exactly match that of surrounding properties, given the variation in appearance of buildings within its context, it would not appear as an incongruous feature and any concerns about facing materials could be addressed by way of a condition.
13. In reaching this conclusion I am conscious that the previous Inspector found that a materially larger building, but of a similar style and layout, would not have been harmful in these regards. There would be no conflict with the development plan, the Framework or Council guidance in this respect.
14. Interested parties responding to the planning application and the appeal have raised a number of other concerns about the effects of the proposal. The provision of ten parking spaces would reduce the likelihood and extent of future occupiers or their visitors parking on surrounding streets. The comings and goings of residents' vehicles would be likely to be less intensive and disruptive than the existing vehicle use of the site has the potential to generate. Although relatively narrow, the proposed access would be convenient and safe

³ Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

⁴ Paragraph 204.

⁵ Regulation 123.

⁶ Circular 05/2005: Planning Obligations, Office of the Deputy Prime Minister, 2005.

bearing in mind the size of the development it would serve and its previous use and I note that the London Fire and Emergency Planning Authority consider that access for fire and rescue vehicles would be acceptable.

15. The noise likely to be generated by domestic activities on the site would not be of a nature or intensity that would be very much different to that arising from existing dwellings in the vicinity. Whilst some trees would be removed as part of the development there are opportunities for replacement planting which would mitigate their loss. I note that my findings on these matters concur with the Council's conclusions in many of these respects. Any concerns about effects on house prices would be a purely private interest and not one material to the consideration of this appeal.
16. Representations were made to the effect that the rights of an adjoining occupier under the Human Rights Act 1998, Article 8, would be violated if the appeal were allowed. This is a qualified right for respect for private and family life and one's home. However, I do not consider this argument to be well-founded as I have found that the proposed development would not cause unacceptable harm to adjoining occupiers' living conditions. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 8.

Conditions

17. It is necessary to specify the approved plans as this provides certainty. In order to limit disturbance to neighbouring occupiers and prevent mud on surrounding roads it is necessary to specify construction hours and require a Construction Method Statement to be approved. To ensure that the character and appearance of the area is preserved it is necessary that external materials, the landscaping of the site, boundary treatments and refuse storage are approved. Requiring the parking to be provided and retained will reduce the need for on street parking. Approving external lighting will ensure that such installations do not unacceptably harm neighbours' living conditions. Specifying sound insulation will limit noise transfer between properties.
18. In order to provide accessible homes suitable for a range of needs and use water efficiently it is necessary to specify the optional Building Regulations requirements in these respects. The Council suggested that at least three flats should be wheelchair adaptable but LP Policy 3.8 only requires a minimum requirement of 10% and I have adjusted the condition accordingly.

Conclusion

19. For the above reasons, and having had regard to all other matters raised, the development would not harm the living conditions of occupiers of neighbouring residential properties and would satisfactorily mitigate demands the development would have on education infrastructure. It would accord with the development plan and the Framework and the appeal is therefore allowed.

Geoff Underwood

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14.168/LP-01 Rev A, 14.168/SL-01 Rev F, 14.168/ML-01 Rev C, 14.168/FL-01 Rev D, 14.168/FL-02 Rev E, 14.168/FL-03 Rev D, 14.168/FL-04 Rev D, 14.168/FL-05 Rev D, 14.168/CS-01 and 14.168/SE-01 Rev B.
- 3) All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 0800 and 1800 Monday to Friday, and between 0800 and 1300 on Saturdays and not at all on Sundays and Bank and Public Holidays.
- 4) No development hereby permitted shall take place until a scheme has been submitted to and approved in writing by the local planning authority making provision for a Construction Method Statement (the Statement) to control any adverse impact of the development on the amenity of the public and nearby occupiers. The Statement shall include details of:
 - a) the parking of vehicles of site personnel and visitors;
 - b) the storage of plant and materials;
 - c) dust management controls;
 - d) measures for minimising the impact of noise, and if appropriate vibration, arising from construction activities;
 - e) predicted noise, and if appropriate vibration, levels for construction using methodologies and at points agreed with the local planning authority;
 - f) a scheme for monitoring noise, and if appropriate vibration, levels using methodologies and at points agreed with the local planning authorities;
 - g) the siting and design of temporary buildings;
 - h) a scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
 - i) details of disposal of waste arising from the construction programme, including final disposal points and making it clear that the burning of waste on the site at any time is specifically precluded, and;
 - j) a scheme and methodology for the wheel scrubbing of vehicles and washing down facilities to prevent mud being deposited onto the public highway during construction works including vehicle parking arrangements, drainage details, contingency plans in the event of break-down of the washing arrangements, details of how any material deposited on public highway will be removed and, in the event of such an occurrence, provisions for site operations to cease until any material deposited on the highway has been satisfactorily removed.

The development shall be carried out in accordance with the approved Statement.

- 5) No above ground development hereby permitted shall take place until samples of the external finishing materials have been submitted to and approved in writing by the local planning authority and thereafter the development shall be constructed with the approved materials.
- 6) No above ground development hereby permitted shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. This shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.
- 7) No above ground development hereby permitted shall take place until details of all proposed walls, fences and boundary treatments have been submitted to and approved in writing by the local planning authority. These features shall then be implemented in accordance with the approved details prior to the first occupation of the development and retained permanently thereafter.
- 8) No dwelling shall be first occupied until provision has been made for the storage of refuse and recycling awaiting collection in accordance with details which shall previously have been submitted to and approved in writing by the local planning authority.
- 9) No dwelling shall be first occupied until space has been laid out within the site in accordance with drawing Nos 14.168/SL-01 Rev F and 14.168/ML-01 Rev C for 10 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 10) No dwelling shall be first occupied until external lighting (including along the access drive) is provided in accordance with details previously submitted to and approved in writing by the local planning authority. The lighting shall be provided and operated in strict accordance with the approved details.
- 11) The dwellings shall be so constructed as to provide sound insulation of 45 DnT,w + Ctr dB (minimum values) against airborne noise and 62 L'nT,w dB (maximum values) against impact noise.
- 12) At least 1 of the dwellings hereby permitted shall be constructed to comply with Part M4(3)(2)(a) of the Building Regulations – Wheelchair Adaptable Dwellings. The remainder of the dwellings hereby permitted shall be constructed to comply with Part M4(2) of the Building Regulations – Accessible and Adaptable Dwellings.
- 13) All dwellings hereby permitted shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations – Water Efficiency.