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# Appeal Decision

Site visit made on 3 July 2018

**by Luke Perkins BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> August 2018**

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**Appeal Ref: APP/B5480/W/3196281**  
**327 London Road, Romford RM7 9NS**

- 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 Bharadia against the decision of the Council of the London Borough of Havering.
  - The application Ref P1803.17, dated 2 November 2017, was refused by notice dated 19 February 2018.
  - The development proposed is described as the conversion of the dwelling into its original 3 bedroom state and use the existing extension along with the proposed extension to create an additional 3 bed dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for the conversion of the dwelling into its original 3 bedroom state and use the existing extension along with the proposed extension to create an additional 3 bed dwelling, at 327 London Road, Romford RM7 9NS, in accordance with the terms of the application, Ref P1803.17, dated 2 November 2017, subject to the conditions set out in the schedule at the end of this decision.

## Application for costs

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

## Preliminary Matter

3. Since the appeal was lodged the revised National Planning Policy Framework (the Framework) came into force, replacing a previous version of the Framework. Views on its relevance to this case were sought from the main parties and no replies were received.

## Main Issue

4. The main issue is whether mitigation is required for the likely effect of the development on the demand for schools infrastructure.

## Reasons

5. Policy DC72 of the Core Strategy and Development Control Policies Development Plan Document (the DPD) seeks to ensure that new development provides for sustainable development through securing contributions towards

infrastructure necessary to mitigate the impact of development. Policy 8.2 of the London Plan 2016 (as amended) (the London Plan) requires developments to address strategic as well as local priorities in planning obligations. The overall objective of Policy DC29 of the DPD is the provision of adequate primary and secondary education facilities, and the stated means of achieving this includes seeking payments from residential developers for the capital infrastructure of schools required to meet the demands generated by residential development.

6. Although the DPD policies pre-date the Framework, they remain broadly consistent with paragraph 54 of the Framework, which outlines that planning obligations may be sought in order to mitigate the impacts of new development. Pursuant to its Planning Obligations Supplementary Planning Document (SPD), the Council seeks a financial contribution for schools of £6,000 from each new dwelling in the borough. It is common ground that the SPD is out of date but the Council still considers the evidence background contained in its technical appendices to be relevant to justify the contribution sought.
7. The appellant considers that the Council has failed to properly consider the change in population that would occur as a result of the appeal scheme and that the financial contribution sought in this case is not necessary. The evidence indicates<sup>1</sup> requirements for infrastructure tend to be more directly related to population (and age structure) than to dwelling numbers so it is important to appreciate the changes in population implied by the scale of additional planned housing. By being extended and part of the existing dwelling being given up, one additional dwelling would be created. The result of the development is that one existing dwelling containing 4 bedrooms and accommodating up to 7 people becomes 2 dwellings each containing 3 bedrooms, and each accommodating up to 4 people.
8. Assuming that each dwelling formed as a result of the appeal scheme accommodates one or 2 adults/guardians, the net effect of the development is that one dwelling containing 7 people including up to 5 or 6 children becomes 2 dwellings each containing 4 people including up to 2 or 3 children. In terms of gross child yield, the existing figure of up to 5 or 6 children (an average of 5.5 children) becomes a proposed figure of up to 4 to 6 children (an average of 5 children). The child yield therefore either stays the same or reduces as a result of the appeal scheme.
9. On the basis of these specific circumstances, I am satisfied that this appeal scheme would not generate a material additional demand for school places. Mitigation for an impact on schools infrastructure is not therefore necessary to make the appeal development acceptable in planning terms and accordingly the financial contribution of £6,000 sought by the Council is not necessary. I have not seen in the evidence that the likely population dynamics of this specific scheme have been considered by the Council.
10. As I have not found a financial contribution to be necessary, there is no need in this case for me to consider the unilateral undertaking provided by the appellant, the Council's approach to pooling contributions, where a financial

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<sup>1</sup> London Borough of Havering Community Infrastructure Levy – Infrastructure Evidence Base Report, paragraph 2.1.5

contribution might have been spent, or whether a planning condition could have been imposed to address the Council's concerns.

### **Other Matters**

11. My attention has been drawn to alleged anti-social behaviour by existing occupants of the building. I have seen no evidence of a connection between the appeal scheme and the behaviour of occupants. I am also aware of a perception that the amount of car parking in the area is insufficient. However, provision has been made for 2 off-street car parking spaces for each of the dwellings involved in the appeal scheme. The Council considers this to be acceptable and so do I.
12. It is also alleged that the existing dwelling is a House in Multiple Occupation and that proposed dwelling would be too. These are not matters I may consider within the scope of a section 78 planning appeal and the evidence indicates the existing building is a dwellinghouse and the proposal before me is for the use of both resultant units as dwellinghouses.

### **Conditions and Conclusion**

13. The Council has suggested a number of conditions which I have considered taking account of advice in the National Planning Policy Framework, Planning Practice Guidance and the appellant's final comments. As a result I have amended some of them for consistency, enforceability, clarity and reasonableness and not imposed those which do not satisfy the tests set out in paragraph 55 of the Framework.
14. Condition 2 is necessary in the interests of proper planning and to ensure that the development is carried out as approved. Conditions 3, 4 and 5 are necessary to ensure that the proposal has an appropriate impact on the character and appearance of the area. In practical terms the appeal scheme is akin to an extension to an existing building rather than a standalone new build house. I do not therefore consider samples of materials are necessary providing the materials match the existing house. Given the lack of trees and shrubs on the site at present I agree a landscaping scheme is not necessary prior to implementation.
15. Condition 6 is required to ensure that there is sufficient space for car parking. The appeal site is on a narrow crescent so I agree a Construction Method Statement is necessary to protect the living conditions of neighbours as are Conditions 8 and 9. Conditions 10 and 11 are necessary in the interests of sustainability.
16. Given the proximity of the new dwelling to the boundary, Condition 12 is necessary to control permitted development rights which would otherwise be available in respect of windows on the flank elevation where the living conditions of neighbours may be adversely affected. I have not seen evidence that other forms of permitted development require control in this case.
17. Condition 13 is necessary in the interests of accessibility. The conditions suggested by the Council also include 3 matters relating to street naming and numbering, planning obligations and the Community Infrastructure Levy respectively. Based on page 10 of the draft officer's report which recommended

approval for the appeal scheme<sup>2</sup>, these 3 matters were intended as informatives and not conditions. As they do not satisfy the tests for conditions I have not imposed them as conditions.

18. Subject to the conditions set out in the schedule below and for the reasons given above the appeal should succeed.

*Luke Perkins*

INSPECTOR

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<sup>2</sup> Included as appendix 2 of the appellant's statement

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2074\_PL01, 2074\_PL02B, 2074\_PL03B, 2074\_PL04 and 2074\_PL05.
- 3) The materials to be used in the construction of the external surfaces of the development shall match those used in the existing building.
- 4) No dwelling shall be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - i) boundary treatments;
  - ii) vehicle parking layouts;
  - iii) other vehicle and pedestrian access and circulation areas;
  - iv) hard surfacing materials;
  - v) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The development shall not be occupied until space has been laid out within the site in accordance with drawing no. 2074\_PL02B for 4 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.

- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of temporary buildings and security hoardings depicting a readily visible 24 hour contact number for queries and emergencies;
  - v) wheel washing facilities;
  - vi) measures to control the emission of noise, vibration, dust and dirt during construction; and
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) Demolition or construction works, the delivery of materials, the removal of materials or spoil from the site, shall take place only between 0800 – 1800 hours Monday to Friday, 0800 – 1300 Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) No dwelling shall be occupied until a scheme for the storage of refuse and recycling has been implemented in accordance with details submitted to and approved in writing by the local planning authority. The approved scheme shall be retained thereafter.
- 10) No dwelling shall be occupied until space has been laid out within the site for bicycles to be parked in accordance with details submitted to and approved in writing by the local planning authority. That space shall thereafter be kept available for the parking of bicycles.
- 11) The additional dwelling shall not be occupied until the Building Regulations Optional requirement Part G2, Water Efficiency, and Regulation 36 (2)(b) of the Building Regulations, have been complied with.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the flank elevation.
- 13) The additional dwelling shall not be occupied until the Building Regulations Optional requirement Part M4(2), Accessible and Adaptable Dwellings, has been complied with.