
Appeal Decision

Site visit made on 18 February 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th March 2020

Appeal Ref: APP/M1595/W/19/3241720

17 College Avenue, Grays RM17 5UN

- 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 Hyjan Investments Holdings Ltd against the decision of Thurrock Borough Council.
 - The application Ref 19/01180/FUL, dated 31 July 2019, was refused by notice dated 26 September 2019.
 - The development proposed is for the erection of a detached dwelling (Class C3), with associated access, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Hyjan Investments Holdings Ltd against Thurrock Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have amended the description of development taken from the Application Form in the banner to omit superfluous information that does not form part of the description of development.

Main Issues

4. The main issues are the effect of the proposed development on: -
 - the character and appearance of the area; and
 - the living conditions of the occupants of 19 College Avenue, in terms of outlook and overlooking.

Reasons

Character and appearance

5. The Development Plan for the Borough comprises the Council's Core Strategy and Policies for Management of Development (Focused Review: Consistency with National Planning Policy Framework, Adopted January 2015) (the CS) and Saved Policies of the Thurrock Borough Local Plan (Adopted September 1997) (the LP).

6. I have been referred to an appeal decision in the Borough¹ in which the Inspector chose to refer to the more recent policies found in the CS and did not refer to Saved Policy H11 of the LP or Annexe A9 which accompanies it. Whilst the Saved Policies of the LP predate the CS, I have taken a different view from my colleague, as Saved Policy H11 still forms part of the Development Plan. However, I have not found in relation to Annexe A9, as it is not referred to in the Council's first reason for refusal.
7. There is agreement between the main parties that the appeal site is situated within a Residential Precinct, as referred to in Policy CSTP23 of the CS and Saved Policy H11 of the LP. Residential Precincts comprise distinctly spacious residential areas and, along with other 'key areas' in the Borough, and Policy CSTP23 aims to protect, manage and enhance them.
8. The appeal site is within a residential area formed of houses that vary in size, shape and design, but buildings are arranged in a coherent manner, parallel with the street and incorporating a frontage. Many of the houses, including those at 17 to 21 College Avenue also incorporate long rear gardens.
9. The site has been cleared but still reads as being part of the rear garden of No 17, which has a side boundary to Bradleigh Avenue. Although that street frontage is delineated by a boundary fence, the site provides a significant break in built development within that street. Moreover, south of the appeal site, there are no other houses to the western side of Bradleigh Avenue and the site neighbours a large area of mature tree planting. Taken together, these stated features give rise to a clear and distinct pattern of development that makes a significantly positive contribution to the character and appearance of the area.
10. Whilst the proposal would have a street frontage, it would be situated behind No 17 and introduce development within an otherwise undeveloped part of the western frontage of Bradleigh Avenue. The proposal would therefore reduce the effect of the separation between the existing single depth development in College Avenue to the mature tree planting to the south and the Quarry Hill Academy beyond. This would have an unacceptably harmful effect on the character of the area.
11. I accept that the individual design of the proposed dwelling would have an acceptable appearance, the materials of construction of which would match those of existing neighbouring properties. However, it is the introduction of built form and the subsequent disruption to the general pattern of development in the surrounding area that would be harmful.
12. I have been referred to the development to the rear of 38 College Avenue, which also has a frontage with Bradleigh Avenue (No 1a). As that dwelling is situated between two properties within the western frontage of Bradleigh Avenue it is not comparable with the appeal scheme, which would extend the built frontage south along Bradleigh Avenue where this is presently absent. Similarly, I have also been referred to the developments at 1A Cresthill Avenue and 1-3 Rocklands Court. As these relate to sites within the built-up frontage to the opposite side of Bradleigh Avenue, they would also not be comparable with the appeal scheme before me.

¹ Appeal Ref: APP/M1595/W/18/3207492 (168 Branksome Avenue, Stanford-Le-Hope, Essex SS17 8DE)

13. Despite my findings in relation to the appearance of the proposed development, I conclude that the appeal scheme would have an unacceptably harmful effect on the character of the area. Hence, the proposal would not accord with Policies CSTP22, CSTP23 and PMD2 of the CS and Policy H11 of the LP. Together these policies require that all development proposals demonstrate high quality design that responds to the sensitivity of the site and its surroundings, including the character of the area, and strengthen the sense of place.
14. The proposal would also conflict with Paragraph 127 of the Framework, which requires that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and are sympathetic to local character, including the surrounding built environment.
15. There would also be an associated conflict with Policy CSTP23 of the CS and Policy H11 of the LP, in terms of the site being designated within a Residential Precinct. However, I acknowledge that such matters are more relevant to the principle of development rather than character and appearance.

Living conditions

16. Due to the topography within the site and the layout of the proposed dwelling, the length and height of the western elevation would incorporate a substantial area of brickwork close to the side boundary of 19 College Avenue. Whilst there is mature tree planting in situ along that boundary within the garden of No 19, these trees are not the subject of a preservation order so could be felled, without permission, in the future. Nevertheless, given the close proximity of the proposed development with the side boundary of No 19, it would be oppressive and create an enclosing effect in relation to the rear garden of that property. Therefore, the presence of the aforementioned trees would not justify allowing the proposed development, which would otherwise cause harm to the living conditions of the occupiers of No 19.
17. Notwithstanding the above, based on the information shown on the application drawings, it appears that the windows in the western elevation of the proposal would be positioned to a high level in relation to each floor. It would therefore be unlikely that overlooking from the proposal would be harmful to the living conditions of the occupants of No 19.
18. Despite my findings in relation to overlooking, I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of No 19, in terms of outlook. Hence, the proposal would not accord with Policy PMD1 of the CS, which states that development will not be permitted where it would cause or is likely to cause unacceptable effects on the living conditions of others, including from visual intrusion.

Other Matters

19. The appellant submitted the proposal following pre-application advice. The Framework stresses the benefits of early engagement and of good quality pre-application discussion. Whilst I am mindful that this is not binding, in any event, I have considered the individual merits of the proposal afresh and any positive feedback given in respect of any matters does not warrant allowing this appeal.

Planning Balance

20. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.
21. The Appellant has suggested that the Council is not able to demonstrate five-years supply of deliverable housing land within the Borough, a position which the Council does not dispute. In such circumstances paragraph 11 of the Framework is engaged. This requires that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole (paragraph 11(d)(ii) of the Framework).
22. In the context of Paragraphs 59 and 68 of the Framework, I note the contribution that would be made to the supply of housing by this small site, particularly as it could be built-out relatively quickly. There is no threshold for the assignment of weight to the quantum of residential development and the proposal would deliver one additional house. Whilst this would contribute to the overall housing mix in the Borough, given the scale of development proposed, I afford this benefit moderate weight.
23. I also recognise that the proposal could be said to make more efficient use of the site. However, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
24. Some economic benefits would arise from, for example, employment and procurement of materials during the construction period. The proposal would be close to the railway station in Grays, which would provide connections to London and the wider region, and services and facilities that would be supported by expenditure from occupants of the proposed house. However, given the extent of the proposal, such benefits would be limited in scale and kind, and consequently carry moderate weight.
25. The absence of harm in respect of other planning issues relevant to the consideration of the development would neither weigh for nor against the appeal scheme. In particular, I note that there is agreement between the main parties that there would not be harm to the living conditions of the occupiers of other houses, such as 17 College Avenue, or the occupants of the proposed dwelling in respect of its external and internal space; and there would be sufficient parking space provided within the site. I have no reason to come to a different conclusion in respect of these matters.
26. The proposed development would not comply with development plan policy in respect of the harm to the character of the area and living conditions of the occupiers of 19 College Avenue. The proposal would not amount to sustainable development under the terms of the Framework, particularly in respect of the visual harm that would result. Overall, the adverse impacts of the proposal are matters of significant weight against the grant of planning permission.
27. The adverse impacts identified would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a

whole. This does not indicate the proposal should be determined other than in accordance with the development plan.

Conclusion

28. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed

Paul Thompson

INSPECTOR