
Appeal Decision

Site visit made on 15 July 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 21 August 2020

Appeal Ref: APP/N1540/W/20/3246827
Ebenezer, Harberts Road, Harlow CM19 4EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Stratton Homes against Harlow District Council.
 - The application Ref HW/FUL/19/00232, is dated 17 June 2019.
 - The development proposed is two new detached four-bedroom houses with associated parking and vehicle access driveway.
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Decision

1. The appeal is dismissed, and planning permission is refused for two new detached four-bedroom houses with associated parking and vehicle access driveway at Ebenezer, Harberts Road, Harlow CM19 4EU.

Procedural Matters

2. The appeal results from the Council's failure to determine the planning application within the statutory period. The Council's subsequent statement confirms that had they been in a position to determine the application they would have refused planning permission on the grounds of the effects on the character and appearance of the area. I have taken this into account in my decision.
3. I have been referred to the emerging Harlow Local Development Plan Pre-submission publication 2018 ('ELP'). The consultation in relation to the detailed Main Modifications to the ELP ended on 31 May 2020 and a final report is awaited. Given the stage of progress and in accordance with paragraph 48 of the National Planning Policy Framework ('the Framework'), I afford it limited weight in this appeal.
4. I have also been appointed to determine an appeal for a similar residential development at Hillcrest, a residential property close to the appeal site and I carried out a joint site visit. Although this appeal relates to Ebenezer only and I am required to determine the appeal on this basis and on the evidence as put to me solely by the parties in this appeal, I have had regard to that appeal where necessary.

Main Issues

5. Given the above, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal site is formed by the side and rear garden of Ebenezer, a substantial chalet style property in a small enclave of six detached residential properties on the periphery of the settlement. The properties appeared to me to be quite unlike the more formal layout and uniform appearance of the groups of residential and other properties in Collins Meadow, to the immediate north and west. In the wider locality the prevailing vernacular was of New Towns Commission houses, flats, and other properties and I also observed examples of more modern infill development. Opposite the site is Northbrook Sports Ground and large tracts of open space are located to the west and south west.
7. The six properties are accessed from Harberts Road and are sited to the front of the plots with side accesses, and large rear gardens containing mature landscaping with significant screening along the boundaries and internally. In combination with a lack of significant development the appeal site and these gardens provide a sense of openness and spaciousness. They act as a visual break between distinctly different residential groups of properties and allow for a transition from the built environment in this part of the settlement into the open space of Collins Meadow Field and Canons Brook beyond. There may well be diversity in the types of properties in the wider area but nevertheless the appeal site positively contributes to the tranquil suburban character and appearance that I experienced and saw. The lack of any character study is not determinative, and I must use my own judgement.
8. Whilst the principle of residential development is not in dispute and notwithstanding the low value put on them by the appellant, a number of trees would still need to be removed. The proposal would involve the significant development of a large part of the side and rear garden of the property and would impose a markedly different form, scale, and type of housing onto this undeveloped land. Because of the sloping topography of the site the properties would be similar in height to the host property, but both would be close to their side boundaries and significantly taller than the properties in Collins Meadow which are a key part of the site's immediate context.
9. Despite not being conspicuous from Harberts Road, two detached dwellings of the scale and type proposed would appear as a visually cramped cluster of built form that would harmfully diminish the positive contribution the appeal site makes to the character and appearance of the area. Such unacceptable suburbanisation of the site would be further exacerbated because the appeal site would be dominated by hard elements such as the buildings, 4.5 to 5-metre-wide access road and hard surfacing for vehicle parking. The proposal would be detrimental to the visual interests of its surroundings and such incongruity would be widely apparent from surrounding properties.
10. I have considered whether planning conditions could address these concerns, for example by securing replacement landscaping to mitigate the effects. However, on the plans before me there would be extremely limited opportunities for added landscaping and it would be dependent on a number of factors to be successful. In any event, I am not persuaded that it would fully mitigate the harm.

11. Overall, the proposal would have an unacceptable adverse effect on the character of the locality. It would therefore conflict with Policies BE1 and H10 of the Adopted Replacement Harlow Local Plan 2006. Amongst other things and when taken as a whole, these allow planning permission to be granted for residential infill development including the subdivision of garden plots, if the proposal would not have an unacceptable adverse effect on the character of the locality. Further, that the height, massing, layout, and appearance makes an appropriate visual relationship with that of the form, grain, scale of the surrounding area and building design is specific to context. These policies are broadly consistent with the approach within the Framework and overall, there would also be some conflict with the design and character objectives of national policy.

Other Matters

12. I acknowledge that positive pre-application advice appears to have been given at officer level and the apparent frustration of the appellant in receiving a recommendation contrary to those previous discussions, albeit a decision was never issued. However, I must have regard to the case that would have been made and consideration of such an issue invariably involves a degree of subjectivity. Each case must also be determined on its own merits and the Council's administration and determination of the application therefore has no bearing on the planning merits of the proposal before me.
13. My attention has also been drawn to the approval of a back-land dwelling to the rear of St Lawrence, known as Foxwood. That proposal is of some vintage (2003) and appears to have been granted contrary to an officer recommendation albeit under a similar policy. However, and whilst I also do not have the full details of the committee's decision, I was able to view that property at my visit where I found it to be a single storey bungalow on an individual and larger plot. The principle of development is not in dispute in this appeal and I have dismissed the appeal on character and appearance grounds. In my view, it is not therefore directly comparable to the proposal before me.
14. Whether a single dwelling would be appropriate¹ is also not a matter for me to consider as part of the appeal before me. The appellant has also referred me to a nearby scheme² at Northbrooks House but that site is not comparable being for a much larger proposal on a much larger site which also included affordable housing benefits. It also appears to be in a regeneration area and is likely to be subject to different considerations and judgements. Thus, none of these other considerations, on their own or in combination, alter my view to dismiss the appeal.

Planning balance and conclusion

15. The proposal would generate some small economic and social benefits from two additional family sized dwellings, which would be delivered quickly and by a Small to Medium-sized Enterprise. The proposal would also make a more efficient use of land, but I ascribe negligible additional benefit in respect of accessibility to local services, as I consider this to be an absence of harm. Set against this the proposal would cause unacceptable harm to the character and

¹ 3.22 of the appellant's final comments.

² LPA ref: HW/FUL/18/00309.

appearance of the area and it would conflict with the development plan, when read as a whole.

16. I have found the policies to be broadly consistent with the Framework and not out of date. However, even if I were to conclude that paragraph 11 d) of the Framework is engaged, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore be the sustainable development for which the Framework indicates a presumption in favour.
17. Drawing my conclusions together, material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan.
18. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR