



Appeal Decision

Site visit made on 7 February 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/B5480/W/21/3282339

11 Kenley Gardens, Hornchurch, RM12 6PD

- 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 outline planning permission
 - The appeal is made by Mr Vince Millen (Millen Homes Ltd) against London Borough of Havering.
 - The application Ref P1346.21, is dated 6 July 2021.
 - The development proposed is described as "Outline Application for a self build plot on land to the rear of 11 Kenley Gardens, Hornchurch with matters of landscaping and appearance reserved."
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Decision

1. The appeal is dismissed, and outline planning permission is refused.

Preliminary Matters

2. This appeal seeks outline planning permission with the appearance of the proposed house and landscaping reserved for later consideration. The appeal has been determined accordingly.
3. The appellant lodged an appeal against non-determination as the Council did not issue a decision on their application within the statutory period. The Council subsequently stated that it would have refused planning permission on grounds of the living conditions of future occupiers and neighbours, the effect on the character and appearance of the area, highway safety and whether the appeal proposal would make adequate provision for the storage of refuse and recycling.
4. The Council adopted the Havering Local Plan 2016-2031 after the statutory date of determination of the application the subject of this appeal. The appellant has been given the opportunity to comment on the new Local Plan.

Main Issues

5. The main issues in the determination of this appeal are:
 - The effect of the proposed development on the living conditions of neighbouring occupiers,
 - The effect on the character and appearance of the area,
 - Whether it would make adequate provision for the storage of refuse and recycling,
 - Whether it would provide acceptable living conditions for future occupiers; and,
 - The effect on highway safety, including whether it would provide good access.

Reasons

Neighbour living conditions

6. The appeal site is garden land to the rear of houses on Kenley Gardens, Hacton Lane and Highfield Way. There is established planting along the site boundaries with these houses, which in places is tall and well established, but in others is relatively sparse. The new house would be visible from several neighbouring houses and their gardens. While the appearance of the house is a reserved matter, its scale is not and a development of this scale would be a dominant and intrusive presence in this context. While the boundary planting could be reinforced to provide additional screening, this would take time to become established and I consider that it would be of only limited benefit in screening a house of this scale from view.
7. As the appearance of the house is a reserved matter, control could be exercised over the size and siting of windows to avoid undue overlooking or loss of privacy to neighbouring properties.
8. Nevertheless, the appeal proposal would overall result in harm to the living conditions of neighbouring occupiers. It would therefore conflict with Policies 7 and 10 of the Havering Local Plan (the HLP) which taken together require development to not result in unacceptable loss of outlook to, or a significant adverse impact on, the amenity of existing residents.

Character and appearance

9. The site is garden land with no indication of previous development other than the presence of two small outbuildings. The introduction of a house of such substantial scale would fundamentally alter the character of the site. The houses surrounding the site on all sides face onto their respective streets, and the appeal proposal would therefore be out of keeping with this established pattern of development. While the site is relatively well-screened, as noted above it is also visible from some neighbouring properties and would be an incongruous feature when seen from them.
10. While Policy 10 of the HLP does provide support in principle for garden and backland development, HLP Policy 26 requires that development proposals be informed by, respect and complement the distinctive qualities, identity and character of the site and local area. Notwithstanding that the appearance of the proposed house is a reserved matter, its size and siting would therefore be harmful to the character and appearance of the area, contrary to the requirements of Policy 26 identified above.

Refuse and recycling storage

11. Policy 35 of the HLP and Policy T7 of the London Plan (the LP) collectively require that development allow for convenient and safe access for waste collection services. The Council's standards for waste storage require that storage locations be no more than 30 metres from the point of collection. This requirement was in place prior to the adoption of the HLP by the Council, but I see no reason that the adoption of the HLP would make this out of date.
12. While the Council and appellant provide different figures for the distance between the proposed storage and collection points, it is not disputed that the distance would be more than 30 metres. There is no space to provide a storage point along the access within this specified distance that would not cause it to

be so narrow that it would prevent vehicle passage. The proposal would therefore conflict with the identified requirements of Policy 35 of the HLP and Policy T7 of the LP.

Living conditions of future occupiers

13. While bedrooms 4 and 5 would be smaller than the minimum size for double bedrooms sought by the Council, they would be larger than the minimum size sought for single bedrooms. I am therefore satisfied that the development would provide acceptable living conditions for future occupiers, in accordance with Policy 7 of the HLP, Policy D6 of the LP and the Technical Housing Standards. Taken together these specify minimum acceptable room sizes for new residential development.

Highway safety and access

14. The site is served by an existing vehicular access. While narrow, the swept path analysis provided with the application shows that an ambulance or similarly sized vehicle such as a delivery van could enter and leave the site in forward gear. Furthermore, the development would provide access to a fire hydrant and the proposed house would be fitted with sprinklers, which could be controlled by an appropriately worded condition. It is not therefore necessary for a fire engine to be able to drive onto the site.
15. The access is shared with the neighbouring properties at Nos 13 and 15 Kenley Gardens. Presently the site is used for parking by the occupiers of No 11 Kenley Gardens with no restrictions, but in line with parking requirements in the LP on-site parking could be restricted to a single space by an appropriately worded condition if I were otherwise minded to allow this appeal. Therefore, even allowing for increased service use of the access I am satisfied that it would not cause unacceptable conflict with its use by occupiers of these neighbouring properties.
16. A previous Inspector reached a different conclusion regarding the site access in assessing a similar proposal for this site. However, that appeal was determined in 2007 and there is little evidence before me of what information was before the Inspector in that case. I can only therefore give their findings limited weight in determining this appeal, which in any case must be assessed on its own merits.
17. The appeal proposal would therefore accord with the relevant criteria of Policy 10 of the HLP, which seeks that residential development of backland sites ensure good access.

Other Matters

18. The Council referred to Policy T4 of the LP in its reason for refusal relating to access, but that policy was not submitted with the Council's evidence. It is not therefore determinative in my assessment of this appeal.

Planning Balance

19. The Council states that, following adoption of the HLP, it can demonstrate at least a five year supply of deliverable housing land. The appellant has not contested this. However, there is no evidence of the Council having granted any planning permission for self-build plots to meet the demand established on their self-build and custom housebuilding register.

20. The proposed development would be a more efficient use of the appeal site providing one new house. It would therefore support the Government's objective of significantly boosting the supply of homes. The site is in a sustainable location a short distance from shops, public transport and other facilities. The development could deliver biodiversity enhancements at the site and be implemented in accordance with suitable sustainability measures. There would be a short-term economic benefit from the construction of the house, and ongoing benefits from its occupation. While the proposal is only for a single house, given the lack of permissions for self-build plots these considerations collectively carry significant weight in favour of the proposed development.
21. These benefits must be weighed against the harm that would result from the appeal proposal. As a result of the size and siting of the proposed house there would be harm to the living conditions of neighbouring occupiers, as well as to the character and appearance of the area. In addition, it would fail to provide adequate arrangements for the storage and collection of refuse. These matters carry great weight when taken together and would outweigh the benefits arising from the appeal proposal.
22. There are therefore no material considerations to indicate that this appeal should be determined otherwise than in accordance with the development plan.

Conclusion

23. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR