
Appeal Decision

Site visit made on 22 March 2022

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2022

Appeal Ref: APP/B5480/W/21/3280504

11 Askwith Road, Rainham RM13 8EL

- 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 Terry Skeels against the decision of London Borough of Havering Council.
 - The application Ref P0820.21, dated 26 April 2021, was refused by notice dated 29 June 2021.
 - The development proposed is demolition of existing workshop and erection of new 2-bedroom bungalow with associated development.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing workshop and erection of new 2-bedroom bungalow with associated development at 11 Askwith Road, Rainham, RM13 8EL in accordance with the terms of the application, Ref P0820.21, dated 26 April 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. In November 2021, after submission of the appeal, the Council adopted the Havering Local Plan 2016 – 2031 (2021) ("Local Plan"). The Local Plan replaces policies of the Havering Local Development Framework Core Strategy and Development Control Policies Development Plan Document (2008), and the Havering Residential Design Supplementary Planning Document (2010). I have taken account of representations made by the parties in relation to the new Local Plan.

Main Issues

3. The main issues are: (i) whether suitable access can be achieved to the proposed dwelling; and (ii) the effects of the development proposed on living conditions, with regard to outlook from neighbouring residential properties.

Reasons

Access

4. 11 Askwith Road is one of four residential dwellings with vehicular access to its rear garden across a concrete parking area at the end of Queens Gardens. The appeal site is the residential dwelling and its garden, plus part of the parking area at the rear which links the property to the adopted highway on Queens Gardens. The proposal is the development of a new dwelling on the rear half of the garden, with vehicular and pedestrian access solely from Queens Gardens.

5. The Council have made no case on highway safety or road network grounds, and at my site visit I saw no technical reason why safe pedestrian and vehicular access could not be provided in this location. Practically that element of the site and the adjoining public highway are unobstructed and sufficient in my view for vehicle manoeuvring likely to result as a result of the proposal. Nevertheless, the Council advises the parking area required for pedestrian and vehicular access to the development is in its ownership, and the Council's Programme Delivery Manager for Property and Land Services states that permission to use the land for access has not been sought and would not be granted if sought. That is notwithstanding that, I am told by the appellant, that access here has been used in practice for many years.
6. Land ownership is not generally a planning matter. Applicants for planning permission are required to notify landowners before making an application, but are not required to gain their consent. However, access to a development is a planning matter, and Local Plan Policies 7 and 26 promote inclusive and accessible high-quality design. Policies 23 and 24 support developments that are accessible by a range of transport options and where parking is located close to people's homes. Suitable access to the development cannot be provided without pedestrian and vehicular access onto Queens Drive.
7. Whilst I accept the Council's position in terms of authorisation for access set out in paragraph 5 of this decision, there is no substantive evidence before me as to the reasons for that position. It is merely stated, and I have found above that the proposal would be acceptable were appropriate access provided. In this respect the Planning Practice Guidance ('PPG') sets out that a 'Grampian condition', i.e. one which requires works on land outside of the applicant's control, should not be used where there are "no prospects at all of the action in question being performed within the time-limit imposed by the permission". In the light of the foregoing reasoning, I cannot reach a finding that is demonstrably the case. Therefore, the imposition of an appropriately worded condition would comply with the approach in the National Planning Policy Framework ('the Framework') and the PPG.
8. With such a condition, the proposed development would therefore allow the development to proceed only when suitable access arrangements have been secured. Subject to such a condition, the development would therefore accord with the relevant provisions of Havering Local Plan 2016-2031 (2021) ('LP') Policies 7, 23, 24 and 26, which relate to inclusive and accessible design and transport options and parking.

Living conditions

9. Askwith Road comprises single, one-and-a-half, and two storey dwellings. In the vicinity of the appeal site most dwellings have long gardens which back onto the open concrete parking area adjoining Queens Gardens. Most gardens contain outbuildings at their rear, and the two closest gardens to the north, have been divided into front and rear sections. To the south, a pair of recent dwellings, accessed from Queens Gardens, sit adjacent to the rear of the appeal site in the vicinity of the proposed dwelling, and may once have been part of the rear gardens of a terrace of houses on Askwith Road adjacent to the appeal site. Beyond the recent dwellings on Queens Gardens, is a three-storey block of flats.

10. The proposed dwelling would be located at the end of a long garden. Although its eaves would be relatively high, the single storey building with a hipped roof would, at least partially, be sited between outbuildings in gardens to the north and south. Its depth would not be dissimilar to that of the existing dwelling, and its roof pitch would be similar to those of other single storey dwellings on Askwith Road. It would also be significantly lower than the two-storey dwellings adjacent to the south on Queens Gardens. The amount of vegetation on the appeal site and in adjoining gardens, and the separation between the dwellings on Askwith Road and the proposed dwelling, would further reduce its effect on outlook from residential properties on Askwith Road such that it would not be obtrusive, or harmful to outlook, in terms of its siting, depth and height.
11. Elements of the proposed building would be also seen from 72-74 Queens Gardens to the south, but it would be set back from the northern aspect of those dwellings, and the highest parts of the roof would only be seen peripherally in their northern and eastern aspects.
12. The proposed development would therefore not unduly affect living conditions, with regard to outlook, from neighbouring residential properties. It would accord with the relevant provisions of LP Policies 7, 26, 27 and 34, which relate to residential design and amenity.

Conditions

13. I have imposed conditions specifying the approved plans for certainty, requiring samples of the external materials of the building and details of boundary treatments in the interests of the character and appearance of the area. I have required suitable refuse and recycling storage to be provided for the duration of the use. I have also imposed conditions requiring the dwelling to comply with the optional water efficiency and accessible and adaptable dwellings requirements of the Building Regulations, as required by London Plan and Local Plan policies. Where necessary for clarity and precision, I have slightly amended the wording of the proposed conditions.
14. I have also required details of the proposed pedestrian and vehicular access and landscaping proposals before development commences to ensure the development is suitably accessed, and that landscaping is retained and planted as necessary to reduce the impact of the development on the character and appearance of the area. I have also required the car parking area on site to be provided and retained before occupation of the dwelling to secure suitable parking arrangements.
15. With the information before me, I have not found it necessary to impose conditions specifying construction hours or construction methodology for this scale of development in this location, to remove 'permitted development' rights for the single storey dwelling, or to require a lighting scheme between the highway and the site entrance given the very short distance. The construction impacts of a development of this scale would be for a temporary period and would be unlikely to be prolonged in duration, and the site is relatively unconstrained in terms of access and storage. Given the prevailing mix of building types and the limitations and conditions contained within the GPDO¹, in my view there is no compelling justification for withdrawing permitted development rights, and the blanket removal of freedoms to carry out small

¹ Town & Country Planning (General Permitted Development) (England) Order 2015

scale domestic alterations is not normally considered reasonable or necessary². Public street lighting is in place at the end of Queens Gardens very close to the proposed access, and I have seen no case for further lighting in this location.

16. Without any evidence of a potentially contaminating prior use of this garden I have also not required a full contamination study, investigation and strategy, but I have imposed a condition requiring measures to be taken if contamination is found during construction.
17. In imposing conditions, I have had regard to the approach in the National Planning Policy Framework and the PPG. Accordingly, I have modified the wording of some conditions proposed by the Council, without altering their fundamental aims.

Conclusion

18. For the reasons given above having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Peter White

INSPECTOR

² PPG Paragraph: 017 Reference ID: 21a-017-20190723

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: 200 Rev 01, 201 Rev 00, 202 Rev 01, 203 Rev 01 and 204 Rev 01.
- 3) No development shall take place until a scheme for pedestrian and vehicular access to the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the occupation of the dwelling hereby permitted, and shall be retained for the duration of the use.
- 4) No development shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and shrubs on and adjoining the site, and details of any to be retained, together with measures for their protection in the course of development. The development shall be carried out in accordance with the scheme. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following occupation 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.
- 5) If contamination is found to be present at the site during construction then, unless otherwise agreed in writing with the local planning authority, no further development shall be carried out until a remediation strategy detailing how the contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990, and shall be implemented as approved before construction recommences. Following completion of the remediation works, a 'Verification Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.
- 6) No development shall take place above ground level until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. The development shall be constructed with the approved materials, which shall thereafter be retained.
- 7) The dwelling hereby permitted shall not be occupied until refuse and recycling storage have been provided in accordance with details submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage shall be retained thereafter.

- 8) The dwelling shall not be occupied until the area set aside for car parking has been laid out and surfaced for the accommodation of vehicles. The parking area shall be retained thereafter and shall not be used for any other purpose.
- 9) The dwelling shall not be occupied until details of all proposed walls, fences and boundary treatments have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall thereafter be retained.
- 10) The dwelling hereby permitted shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations - Water Efficiency.
- 11) The dwelling hereby permitted shall be constructed to comply with Part M4(2) of the Building Regulations - Accessible and Adaptable Dwellings.

End of conditions.