



Appeal Decision

Site visit made on 7 February 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2023

Appeal Ref: APP/B5480/W/22/3302934

35 Maclellan Avenue, Rainham RM13 9SS

- 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 D Collins against the decision of the Council of the London Borough of Havering.
 - The application Ref P0258.22, dated 20 February 2022, was refused by notice dated 14 April 2022.
 - The development proposed is the erection of a 2-storey 3-bedroom detached house to the side of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 2- storey 3- bedroom detached house to the side of the existing dwelling at 35 Maclellan Avenue, Rainham RM13 9SS in accordance with the terms of the application, Ref P0258.22, dated 20 February 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issue

2. The main issue in this appeal is the effect of the proposal on highway safety, with particular regard to parking.

Reasons

3. Maclellan Avenue is a quiet, suburban, residential street. It is one of several such streets accessed from a somewhat busier main road. Maclellan Avenue is not a through-route for vehicles, other than for those servicing the local park at its end. There is a 'turning head' for vehicles in front of the park entrance.
4. Most houses on Maclellan Avenue are semi-detached, with off-street parking for one or two cars in driveways and, in some cases, a garage. Double yellow lines restrict parking around the corners of the main junction and one side street junction. Several on-street parking bays for general, unrestricted use are marked out at intervals elsewhere along the street and on the side street.
5. The appeal site is the last plot on the street, situated opposite the turning head. There is a marked, general-use parking bay immediately outside the existing house. Another larger bay is located directly opposite.
6. Policy 24 of the Havering Local Plan (HLP) sets a minimum residential car parking standard of 1.5 spaces per 3-bedroom unit in areas, like this, that have public transport access level (PTAL) 1 (low). Policies T6 and T6.1 of the London Plan (LP) support this approach. Taken together, the host property and new house would need a minimum of 3 parking spaces to meet the requirements of

Policy 24 of the HLP. Only one off-street parking space is proposed, so two of these spaces would need to be met through general use on-street spaces.

7. Little evidence has been provided about on-street parking capacity in MacLennan Avenue and the surrounding streets. I observed that most of the on-street parking bays were empty, including those immediately outside and opposite the appeal site. There were cars parked in some of the residential driveways. This observation represents a snapshot in time, during the daytime. However, existing residents generally have some dedicated off-street parking so are not solely reliant on the availability of on-street spaces. This would be the case even during evenings and at night when demand for spaces would be higher. Given this, two additional spaces would only be a modest increase in on-street parking demand.
8. Demand for on-street parking on MacLennan Avenue is increased by proximity to the park. This contains a children's play area and community sports facilities, which were not in use at the time of my visit. Little evidence has been provided about the level of parking demand generated by the park or its facilities. There are other entrances to the park from other streets, so on-street parking demand from the park would not need to be met solely by MacLennan Avenue.
9. The on-street parking bay outside the existing house at No 35 is a public space, so cannot be used solely by the those driving to this property. It is usual for some of the demand for car parking in residential streets in London to be met on street. Unregulated parking bays available for general use provide a common resource that can cater for residents, visitors and service vehicles in an efficient and flexible way. Policy T6C of the LP states that an absence of local on-street parking controls should not be a barrier to new development and advises boroughs that such controls can be implemented where necessary.
10. It has been put to me that an increase in on-street parking would adversely affect highway safety near the appeal site, but little evidence has been provided to substantiate this. The level of traffic on these streets is low and it moves slowly. The on-street bays are clearly marked and allow sufficient footway for pedestrians to use, including those with restricted mobility. There are several locations between the bays where pedestrians can cross safely. There is a dedicated footway around the entire turning head at the end of MacLennan Avenue. This reduces the risk of conflict between cars or cyclists manoeuvring in this location, and pedestrians, including those accessing the park.
11. Taking all this into account, I conclude the proposed dwelling would not affect highway safety, with particular regard to parking. Accordingly, I find no conflict with Policy 24 of the HLP or Policies T6 and T6.1 of the LP, summarised above. I also find no conflict with paragraph 111 of the National Planning Policy Framework (the Framework), which states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Conditions

12. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. In addition to the standard time limit condition, I have imposed a condition requiring that the

development is carried out in accordance with the approved plans. This is in the interest of certainty.

13. A restriction on the hours of construction is necessary to protect the living conditions of those living nearby during the construction period. However, I consider a pre-commencement condition requiring prior approval of a Construction Management Plan is not necessary given the location and scale of this development.
14. The conditions requiring approval of details of external materials and boundary treatments are necessary to integrate the appearance of the new and existing dwellings and to protect the living conditions of occupiers of the existing house. A condition to manage water run-off from hard surfaces is necessary to mitigate the risk of surface water flooding.
15. A condition securing the provision and retention of the proposed off-street parking space is necessary to prevent a further increase in demand for on-street parking than that considered acceptable in this decision. The condition requiring compliance with optional Building Regulations requirements M4(2) on accessible and adaptable dwellings is necessary to accord with Policy 7 of the HLP and Policy D7 of the LP. However, the reasons for a condition relating to water efficiency are not clear. On that basis, such a condition is not necessary.
16. It is necessary to restrict by condition permitted development rights for additional windows in the side elevation facing the existing house. This is to enable the Council to manage any impacts of future proposed windows on the occupants of that house. However, justification for the wholesale removal of freedoms to carry out other small-scale alterations and extensions is not specific and precise enough to meet the tests of necessity and reasonableness.

Conclusion

17. For the above reasons, having had regard to the development plan as a whole, the Framework and all other matters raised, I conclude that the appeal should be allowed.

C Carpenter

INSPECTOR

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: SE 1645-01/P1 Block Plan & Site Location Plan; SE 1645-04/P1 B Proposed Ground Floor Plan; SE 1645-05/P1 B Proposed Section AA, First Floor Plan & Roof Plan; and SE 1645-06/P1 B Proposed Elevations.

- 3) All building operations in connection with the construction of external wall, roof and foundations; site excavation or other external site works; works involving the use of plant or machinery; and the erection of scaffolding shall only take place between the hours of 8.00 and 18.00 Monday to Friday and between 8.00 and 13.00 on Saturdays and not at all on Sundays or Bank or Public holidays.
- 4) No development above ground shall take place until details of the materials to be used in the construction of the external surfaces of the house hereby permitted 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.
- 5) No development above ground shall take place 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 and retained thereafter.
- 6) All hard surfaces hereby approved as part of the development (including any sub-base) shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the application site.
- 7) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing No SE1645-04/P1 B for one car to be parked and that space shall thereafter be kept available at all times for that purpose.
- 8) The dwelling shall not be occupied until Building Regulations optional requirement M4(2) has been complied with.
- 9) 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 (other than those expressly authorised by this permission) shall be constructed on side elevation 4 as shown on drawing No SE 1645-06/P1 B.