



Appeal Decision

Site visit made on 13 February 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/B5480/W/22/3306877

15 Burntwood Avenue, Hornchurch RM11 3JD

- 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 Jamie Atkins against the decision of the London Borough of Havering.
 - The application Ref P0773.22, dated 12 May 2022, was refused by notice dated 19 July 2022.
 - The development proposed is construction of 1No. x 5 bedroom detached dwelling with integral garage and off street parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon the character and appearance of the surrounding area; and upon the living conditions of neighbouring occupiers, with particular regard to privacy, outlook, noise and disturbance.

Reasons

Character and appearance

3. The appeal site is located within Emerson Park, which is an established residential area characterised by medium and large dwellings in spacious well landscaped grounds. The host property at No.15 Burntwood Avenue (No.15) is typical of this character, being a large property in a generously sized plot.
4. The residual plot at No.15 would remain considerably larger than the appeal plot, but its rear garden length would be significantly reduced. The residual plot at No.15 would also be considerably shallower than the neighbouring plots to the east along Burntwood Avenue.
5. To the immediate north of the appeal site is No.6 Porchester Close (No.6). Although No.6 has a relatively shallower plot depth than its neighbours at Nos. 8, 10 and 12, it also has an area of garden to its westerly elevation, and as such retains the character of a large plot. The appeal plot would be considerably smaller than that of No.6. The rear boundary of the proposed dwelling would abut the side boundaries of the rear gardens of No.8 Porchester Close and No.17 Burntwood Avenue. The proposed dwelling would thus appear as a residential property within the rear garden setting of properties to the immediate north, south and east, and it would therefore be in sharp contrast to the prevailing plot character to the immediate north, south and east.

6. The proposed dwelling would share access with an adjacent development site at No.13 Burntwood Avenue (No.13), which benefits from an extant permission allowed on appeal¹. The appellant contends that the appeal site relates more closely to this scheme, which is not yet built. The appeal plot would be significantly smaller than the proposed large plot at No.13 to the front of Burntwood Avenue. While the proposed dwelling would have a similar plot width to the three proposed properties at the rear of No.13, its plot depth would be significantly shorter. The proposed plot would therefore be discordant to the plot sizes of the proposed neighbouring development.
7. Due to its siting, scale, height, width and depth, the proposed dwelling would have a large bulk and massing, close to common boundaries with neighbouring properties to the north, south and east. Thus, the proposed development would not respect the spacious setting and arrangement of properties within the area.
8. For the above reasons, the proposed development would result in a cramped plot pattern, discordant to the prevailing plot size, setting and arrangement of properties in the surrounding area. The character of spacious plots within well landscaped grounds would be undermined.
9. There may be other backland development plots such as those accessed from Porchester Close. However, I have not been provided with the precise details of these sites, and I am not aware of their full circumstances as to whether they are directly comparable to the proposal before me. I have dealt with the appeal on the basis of the evidence, and my own observations.
10. The presence and/or proximity of large outbuildings within neighbouring plots does not justify the proposal. Such buildings are not directly comparable due to their smaller scale and height; and their ancillary nature. Moreover, their presence serves to demonstrate the character of larger plot sizes.
11. Policy 28 of the Havering Local Plan, 2021 (HLP) relates to heritage assets. Emerson Park is a non-designated heritage asset, and it is referred to in the HLP as having a special character. It is a relevant planning policy.
12. I conclude that the proposed development would unacceptably harm the character and appearance of the area and thus undermine the significance of Emerson Park. The proposed development therefore conflicts with Policies 7, 10, 26, 27 and 28 of the HLP; and Policy D3 of the London Plan, 2021. It would not comply with the guidance within the Havering Local Development Framework Emerson Park Area Supplementary Planning Document 2009 (SPD). Taken together, these policies and guidance seek to ensure that development is of a high quality design and respects the distinctive qualities, identity, and character of the area, including areas of special character; that development on garden and backland sites does not adversely harm the character of an area; and that the special character of Emerson Park is maintained or enhanced. It would also conflict with paragraph 130 of the Framework, which seeks to ensure that developments are sympathetic to local character and history.

Living Conditions

¹ APP/B5480/W/21/3268701

13. The rear elevation of the proposed dwelling would include windows to habitable rooms at the first floor. Due to the closeness of the proposed dwelling to the common boundary, these windows would result in indirect overlooking of the rear gardens of No.15 and No.6.
14. Due to the relationship between the proposed dwelling and the rear garden of No.6, overlooking would be to the shallower part of the rear garden of No.6. This includes a rear patio, which would be a well-used part of the rear garden of No.6. Consequently, the level of overlooking would be unacceptable.
15. Due to the relationship between the proposed dwelling and the rear garden of No.15, overlooking would be confined to the north easterly part of the rear garden of No.15. Therefore, I do not consider that the level of overlooking would be so significant as to be unacceptable.
16. Due to its siting, the proposed dwelling would be close to the rear garden boundary of No.6. The outlook from No.6's garden would include the northerly flank of the proposed dwelling, with the mass of the roof above. The rear elevation and mass of the roof would also be within view from the shallower part of the rear garden of No.6. Therefore, due to its siting, scale, height, depth, width, and massing, the proposed dwelling would be unacceptably overbearing within the garden of No.6.
17. Due to its siting, the proposed dwelling would be near to the rear boundary of the garden of No.15. The direct outlook from No.15's rear garden would include the southerly flank of the proposed dwelling and mass of the roof above. The rear elevation and mass of the roof would also be within view from a considerable portion of the rear garden of No.15. Thus, due to the proposed dwelling's siting, scale, height, depth, width and massing, it would have an unacceptable overbearing effect on the garden of No 15.
18. I acknowledge that any greenery lost as result of building the house could be compensated for by new planting that could be secured by a planning condition. However, this matter has little weight and it does not persuade me to find the scheme acceptable.
19. The appellant suggests that the relationship of the proposed dwelling to neighbouring properties would be no different to that between the outbuilding at No.17 Burntwood Avenue and the rear garden of No.10 Porchester Close; or between Nos.11a and 11b Burntwood Avenue which abut the adjacent scheme at No.13 Burntwood Avenue. However, these built forms are of a much smaller scale and height than the proposed dwelling, and as such they are not comparable to the appeal proposal before me.
20. The proposed dwelling would result in an increase in noise and disturbance from the comings and goings of an additional household. The additional noise and disturbance would not be so significant as to be unacceptable. However, no harm has only neutral weight that does not count in favour of the scheme.
21. I therefore conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers, with particular regard to privacy and outlook.
22. I therefore conclude that the proposed development conflicts with Policies 7 and 10 of the HLP. These policies seek to ensure that development is of a high quality and that the amenity and quality of life of existing residents is not

adversely impacted. It would also conflict with paragraph 130 of the Framework, which seeks to ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Planning Balance

23. The proposed development would support the government's objective to significantly boost the supply of homes. An additional unit would make a small contribution to housing supply.
24. The adverse impact I have identified is unacceptable harm to the character and appearance of the area; and to the living conditions of neighbouring occupiers. Paragraph 124 of the Framework requires me to take account of the desirability of maintaining an area's prevailing character and setting (including residential gardens); and the importance of securing well-designed, attractive and healthy places. Paragraph 130 of the Framework seeks to ensure that developments are sympathetic to local character and history; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. In this regard, the development plan policies with which the development conflicts are in conformity with the Framework. I therefore afford substantial weight to the conflict with these policies.
25. The development therefore conflicts with the development plan as a whole, for the above reasons.
26. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites. In accordance with footnote 8 to paragraph 11 of the Framework, this position is not overcome by a satisfactory Housing Delivery Test. The proposed development would not affect areas or assets of particular importance that would provide a clear reason to refuse the development proposed. Thus, paragraph 11d) ii is engaged, whereby permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. The proposed development would deliver an additional unit to the housing supply, and it would support the Government's objective of significantly boosting the supply of homes. However, this would be a limited benefit. In contrast, the proposed development would unacceptably harm the character and appearance of the area, and the living conditions of neighbouring occupiers. Paragraph 124 of the Framework requires me to take account of the desirability of maintaining an area's prevailing character and setting (including residential gardens). Paragraph 130 of the Framework seeks to ensure that developments are sympathetic to local character and history; and provides a high standard of amenity for existing users. I therefore afford substantial weight to the adverse impacts I have identified.
28. Drawing together the above, the adverse impacts of the proposed development significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The development therefore does not benefit from the presumption in favour of sustainable development as set out in paragraph 11 d) ii of the Framework.

Conclusion

29. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

J Moore

INSPECTOR