



Appeal Decision

Site visit made on 17 August 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Appeal Ref: APP/U5930/W/22/3312771

166 Westward Road, Chingford E4 8QQ

- 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 Mr H Yusuf against the Council of the London Borough of Waltham Forest.
 - The application, Ref 222486, is dated 18 August 2022.
 - The development proposed is demolition of existing bungalow and construction of 3 houses.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing bungalow and construction of 3 houses is refused.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that on the planning application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the original application.

Background and Main Issues

3. Following the submission of the appeal against non-determination, the Council has clarified the decision it would have taken on the application if it had been determined within the statutory time period. The Council would have refused the development and they have set out the specific reasons why this would have been the case.
4. Given this context, the main issues are:
 - The effect of the proposed development upon the character and appearance of the area;
 - Whether appropriate provision would be made for cycle parking; and
 - Whether planning obligations are necessary to make the proposed development acceptable and, if so, whether any necessary agreements have been entered into.

Reasons

Character and appearance

5. 166 Westward Road is a residential property located within an area that is predominantly residential in character. The host property is traditionally designed and whilst it may not have any particular architectural merit, it nevertheless appropriately assimilates into the street scene. Although Westward Road contains a mixture of properties, it is appreciable that there are pairs and short rows of properties which share features of a like design. This includes bay windows and feature front elevation projections. Where this is the case, these properties exhibit a strength of uniformity which contributes positively to the character and appearance of the area.
6. To one side of the appeal site are 3 attached properties. Although a recent addition to the street scene, each of these properties are of a like appearance. These properties are of the same width and, amongst other design features, each has the same front hipped roof projection, the same external material distribution and the same approach to fenestration.
7. The houses proposed would attach to the 3 houses with the like appearance I have described above. Although the proposed houses would, I accept, take some design cues from those existing, they would be noticeably narrower and, each would feature a front hipped roof projection of a different proportion. Each proposed house would also feature a roof window within the front roof slope which the existing houses which would adjoin do not have.
8. By attaching to the existing houses yet failing to fully reflect their appearance, the proposal would unbalance the existing symmetry exhibited by the short terraced row. Owing to the inconsistencies in their design and appearance, the row of 6 houses which would be formed would appear discordant and unacceptably reduce the quality of the street scene.
9. The dormer windows proposed to the rear of the houses would each be set down from the roof ridge and set back from the eaves level. Despite this, they would each span a considerable proportion of the rear roof slopes and be of significant scale. Coupled with the flat-roofed design they would form large, box-like additions to the roofscape of the proposed development. The main front roof slopes of the houses would have steep pitches, whilst the feature front projections would have hipped roof profiles. The box-like appearance of the proposed dormers would be at odds with the pitches exhibited by the rest of the development which would result in an incohesive roofscape design.
10. Therefore, I also find that the proposed dormer windows would represent unsympathetic features. During my visit, I noted that large flat-roofed dormers are present in the local area. However, the planning history of the examples I viewed is not known to me. Regardless, for the above reasons, I have identified why the proposed dormer windows would be unsuitable in this particular case.
11. For these reasons, the proposed development would have unacceptably harmful effects upon the character and appearance of the area. In coming to this view, I acknowledge that the appeal site is not within a conservation area whilst listed buildings may not be nearby. I also accept that there are detailed elements of the design of more merit, such as the external materials proposed. However, these factors would not outweigh the harm that would be caused to

the street scene which I have described above and, I cannot agree, as has been put to me, that the proposed development would be in keeping with the area.

12. Therefore, the proposed development would conflict with Policies CS2 and CS15 of the Waltham Forest Local Plan Core Strategy, March 2012 (CS), Policy DM29 of the Waltham Forest Local Plan Development Management Policies document, October 2013 (DMP document) and Policy D4 of the London Plan, March 2021 (LP). The proposed development would also conflict with guidance within the Urban Design Supplementary Planning Document, February 2010 (SPD). In summary, and amongst other matters, these policies and provisions require that development provides a high standard of urban and architectural design, responds positively to local context and character and, ensures that the design quality of a scheme is maintained.

Cycle parking

13. Together, Policies DM14 and DM16 of the DMP document seek to encourage cycling as a sustainable transport mode. As a part of this, these policies require developments to provide well-designed, high-quality cycle parking. The justification to Policy DM16 sets out that well-designed, high-quality cycle parking is that which is dedicated, secure, easy to access, including from the street and, therefore, convenient.
14. Although the appellant submits that secure cycle parking is to be provided within the rear gardens of the proposed houses, no such parking facilities are identified on the plans. Furthermore, the 3 houses proposed span the entirety of the appeal site and, therefore, no external paths to the rear garden spaces are provided nor, would there be space for them to be accommodated given this layout.
15. If cycle parking were to be provided in the rear gardens then, in order to gain access to the street, cycles would need to be brought through the length of the houses. This would be inconvenient and would not represent well-designed, high quality cycle parking.
16. At the front of the proposed houses there is already a driveway, a landscaped area and refuse storage proposed. It has not been shown to me that space would remain to provide cycle parking in this location as an alternative.
17. For these reasons I find that the proposed development has not made appropriate provision for cycle parking. The development would, therefore, be contrary to Policies DM14 and DM16 of the DMP document.

Planning obligations

18. The Council submit that a planning obligation under section 106 of the Planning Act would be necessary in order to secure various highway works, financial contributions towards the monitoring of a construction logistics plan, the provision of transport improvements and, toward the consultation and implementation of a controlled parking zone in the future. The Council also indicate that a section 106 agreement would be required to secure a highway condition survey and reparatory works as necessary. Finally, it is also submitted that a further financial contribution would be necessary in order to mitigate the effects of the development upon the Epping Forest Special Area of Conservation (SAC).

19. If I were minded to allow the appeal, I would need to determine the effects on the integrity of the SAC. Even if no adverse effects would result, this would be a neutral factor in this appeal. However, given I am dismissing the appeal for other reasons, there is no need for me to consider this matter in detail.
20. The various highway works would, in summary, entail the removal of existing and provision of proposed vehicular accesses together with the renewal and reinstatement of the footpath next to the site. However, it has not been shown to me that these highway works could not be ensured through the imposition of conditions.
21. I have been provided with no precise detail in relation to what monitoring of any construction logistics plan would be necessary or, why the Council would be unable to undertake such monitoring without a specific financial contribution.
22. The Council refer to the appeal site's proximity to services and facilities and, I note that this was a factor in the Council coming to the conclusion that the principle of housing development is acceptable at the site. I have no reason to disagree with these findings. I have been provided with no substantive evidence of the forms of transport improvements any financial contribution secured would deliver. For these reasons, it has not been shown to me that such a contribution would be necessary, directly related to the development or fairly and reasonably related in scale and kind to the development.
23. Finally, a controlled parking zone may be planned in the area. However, I have very limited information before me in relation to the detail of this parking zone proposal or the processes to be undertaken prior to its implementation. Given this and, given that the Council have not indicated to me any objections to the proposed development on vehicular parking related grounds, I cannot conclude that a financial contribution towards this future controlled parking zone is necessary.
24. Therefore, having regard to Regulation 122 of the Community Infrastructure Levy Regulations 2010, the tests for planning obligations set out at paragraph 57 of the National Planning Policy Framework, September 2023 (the Framework), Policy DM36 of the DMP document and, the Planning Obligations Supplementary Planning Document May 2017, I cannot agree with the Council that each of the planning obligations it has referred to are necessary to make the development acceptable. Regardless, I am dismissing the appeal for other reasons, therefore my conclusions on the planning obligations are, in this case, not decisive.

Other Matters

25. The proposed development may provide acceptable room sizes, together with secure and landscaped outside space for its future occupiers whilst no harm to the living conditions of neighbouring occupiers may result. The car parking proposed may be acceptable, as may refuse and recycling storage provisions. However, the absence of harm in relation to these matters is neutral in the planning balance and does not outweigh the harm I have identified in the main issues.
26. I have identified that the proposed development would harm the character and appearance of the area and would not provide appropriate provision for cycle

parking. Consequently, I cannot agree with the appellant that the proposed development represents the optimum development capacity of the site or has an acceptable layout and density.

27. I note that pre-application exchanges have been held with the Council which is advocated by the Framework including at paragraph 39. It may be that efforts to amend elements of the proposed development in order to address points raised by the Council have also been undertaken. Nevertheless, I must assess the appeal proposal on its merits, and in the main issues, I have identified harm.
28. I acknowledge that planning permission has previously been granted at the site to demolish the existing bungalow and replace it with housing¹. However, in the scheme with planning permission, 2 semi-detached houses would be developed which would not adjoin the adjacent properties. The design, scale and appearance of the semi-detached houses would be markedly different from the terraced houses proposed in this appeal case. Unlike in the appeal proposals, each of the approved semi-detached houses would be provided with dedicated cycle parking to their rear, accessed via paths to the side of each house. Therefore, the effects of the development with planning permission in relation to both the character and appearance of the area and cycle parking provision would not be very comparable with the appeal scheme. As a result, whilst I have no reason to conclude that the development with planning permission does not have a real prospect of taking place, it does not weigh in favour of the appeal proposal.

Conclusion

29. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
30. In providing 3 new houses, the proposed development would make a modest, albeit valuable, contribution to housing supply and provide a choice of new homes. The proposed development would also redevelop a small brownfield site.
31. On the other hand, in the main issues I have identified that the proposed development would have unacceptably harmful effects upon the character and appearance of the area and would not make appropriate provision for cycle parking.
32. These adverse effects of the development are considerable. Although in the third main issue I have not concluded that each of the planning obligations referred to by the Council are necessary to make the development acceptable, this does not outweigh the harm I have identified nor is it decisive in this case. Even in a scenario whereby paragraph 11(d) of the Framework is engaged, the adverse effects are sufficient to significantly and demonstrably outweigh the aforementioned benefits of the development when assessed against the policies in the Framework taken as a whole.
33. Therefore, and although the proposed development would accord with various development plan policies, the development would conflict with the development plan taken as a whole. This conflict is not outweighed by other

¹ Planning permission reference 211265

considerations, including the Framework. In conclusion, for the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

H Jones

INSPECTOR