



Appeal Decision

Site visit made on 26 June 2024

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/B5480/W/23/3331028

3 Sylvan Avenue, Hornchurch RM11 2PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by John Pittaway against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0815.23.
 - The application sought planning permission for 2 x three storey, 6-bed, detached dwellings with associated parking and amenity space, involving demolition of existing dwelling including outbuilding to the rear of each property without complying with condition 14 attached to planning permission Ref P0030.22, dated 31 October 2022.
 - The condition in dispute is No 14 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no extension or enlargement (including porches and additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without the express permission in writing of the Local Planning Authority.*
 - The reason given for the condition is: *In the interests of amenity and to enable the Local Planning Authority to retain control over future development, and in order that the development accords with Local Plan Policies 7 and 26.*
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal is for the variation of condition 14, to specifically remove the withdrawal of permitted development rights for outbuildings. However, in applying to vary the condition, proposed plans for two detached garages to the front of the two dwellings granted planning permission under Ref P0030.22 have been submitted. I do note that the Council have assessed these drawings akin to a full planning application. However, this appeal relates to the variation of condition 14 under a section 73 application. In the absence of any alternative suggested approaches made by either party dealt with this appeal in the same way.

Main Issue

3. The main issues relevant to this appeal are:
 - whether the condition is necessary having regard to the interests of amenity; and,
 - the effect of the proposal upon the character and appearance of the area.

Reasons

Variation of condition 14

4. The appeal site is located off Sylvan Avenue which has an open character despite the large buildings located within each plot. The approved development would create two detached dwellings which would be sited close to a water tower. This appears to be under construction. This water tower is Grade II listed. The dwellings feature angled entrance points and a projection off each property into the rear garden. As such, the private rear amenity space located to the rear of each detached dwelling is limited in overall space.
5. The reason given for condition 14 is in the interests of amenity. It is unclear from the evidence before me if this is in regard of future occupiers through the provision of the total area of private amenity space, or in regard of the living conditions of the occupiers of neighbouring properties. Policy 7 of the Havering Local Plan (2021) (the HLP) requires development to not result in overlooking, a loss of privacy or outlook, loss of daylight and sunlight, unacceptable noise, vibration and disturbance and incorporate a high level of amenity space that is designed to be multifunctional and offer a range of leisure and recreation opportunities. Amenity has not been defined further than this policy basis. As such, I have assessed the appeal against all possible meanings as suggested under Policy 7 of the HLP.
6. It is not considered that the proposed development would give rise to overlooking, a loss of privacy or outlook, the loss of daylight and sunlight, or unacceptable noise, vibration and disturbance. However, given the limited overall size, width and depth of each garden, the development of outbuildings would reduce this overall space to a size which would be harmful to the living conditions of future occupiers. If the appeal was allowed and condition 14 was varied, the development of outbuildings in the rear gardens of these properties would prevent the undertaking of a range of leisure and recreation opportunities. This includes the undertaking of household tasks, such as the storage of refuse and recycling bins and the drying of washing. Even if I were to vary the condition to allow the garages as shown on the submitted plans, it would lead me to a different conclusion. As such, this would work against the aims of Policy 7 of HLP.
7. Overall, I consider that the condition is necessary to ensure that an appropriate level of private amenity space is provided for the future occupiers of the dwellings permitted under Ref P0030.22. I find that the variation of condition 14 would be contrary to Policy 7 of the HLP.

Character and appearance

8. Sylvan Avenue has an open character due to the set back of dwellings away from the highway. Outbuildings which generally take the form of garages are noted. These are located closer to the highway than the host dwelling. However, these are of a limited size and height. The submitted plans indicate the provision of outbuildings to be used as garages with an office forward of front elevation of each individual dwelling. Cumulatively, this would create a structure with a large length, width and tall roof height, creating a building with a substantial mass, located a close distance from Sylvan Avenue and each host property. As such, this would create a dominant structure which would be incompatible within the street scene and appear incongruous in its relationship

with each host dwelling. This would be a departure from the design, form and massing of other garages located in a similar position in the vicinity.

9. A list of properties within Sylvan Avenue and the wider area with detached garages sited in a similar position have been presented. No information such as a decision notice or officer report has been provided and therefore, I cannot confirm the reasoning behind the granting of planning permission for these examples. However, I was able to view these examples during my site visit. From the examples given, these are smaller overall in width and height which creates a positive relationship with their associated house. Therefore, these do not appear overtly dominant in relation to their host dwellings or the street scene and do not lead me to a different conclusion.
10. To conclude, there is an open character to Sylvan Avenue. The overall height, width and position of the development would erode this character. Other garages located in similar positions are smaller than those proposed in this appeal. Therefore, the proposal would conflict with Policy 26 of the HLP and the guidance found within the Emerson Park Policy Area Supplementary Planning Document (SPD). Policy 26 seeks for development to respect and compliment the qualities of the identity of the site and local area, which complements the local street scene. The SPD provides guidance on new buildings within the policy area and states that no new building will be permitted unless its massing is compatible with the character of the street scene. The proposal would also work against the National Planning Policy Framework, which seeks to promote good design.

Other Matters

11. Located within the site is the Grade II listed water tower. Protected trees are also located near to the site. As the appeal is being dismissed for other reasons, the proposal would not lead to a change of the buildings setting or harm to these trees.

Conclusion

12. The proposal would conflict with the Development Plan, taken as a whole. There are no material considerations, which indicate that the decision should be taken other than in accordance with the Development Plan. Therefore, for the reasons given above the appeal should be dismissed.

J Smith

INSPECTOR