

Appeal Decision

Site visit made on 13 August 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th August 2024

Appeal Ref: APP/B5480/W/24/3337296

15 Burntwood Avenue, Havering, Hornchurch RM11 3JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Jamie Atkins against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1570.23.
 - The development proposed is the construction of a two storey 5 x bedroom detached dwelling with basement including off street parking, cycle store, associated hardstanding and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on;
 - the character and appearance of the area, and
 - the living conditions of neighbouring occupiers with regard to outlook and privacy.

Reasons

Character and appearance

3. The appeal site is a large parcel of land which contains the host property, No 15 Burntwood Avenue along with a detached garage. The wider area of Emerson Park is an established residential area which is characterised by mostly large dwellings within large, spacious and landscaped plots.
4. The appeal site has extant permission for a scheme of four dwellings which would incorporate an accessway between the boundary of No 13 Burntwood Avenue and No 15. The appeal proposal would be located directly behind No 15 and would utilise the accessway proposed through the extant permission.
5. The overall size of the proposed dwelling would be similar to those allowed on the extant permission. However, the size of the plot would have a much shorter depth which would be at odds with the prevailing large and spacious plots within the area.

6. I note that a previous scheme was dismissed at appeal¹ and that a number of changes have been made which include the reduction in overall size and re-positioning of the proposed dwelling. However, the small size of the plot remains which would result in a cramped development that would be at odds with the prevailing character and appearance of the area.
7. The proposed development would comply with guidance contained within the Council's Emerson Park SPD² in that the minimum requirement of new development is not within 1m from an adjoining common party boundary at ground floor or 2m at first floor. While the setback distances are greater than previous applications and the garden is larger, the plot size remains small and out of character with the wider area and as such, compliance with these minimum standards does not outweigh the harm identified.
8. I therefore conclude that the proposed development would harm the character and appearance of the area. It would be contrary to Policies 7, 10, 26, 27 and 28 of the Havering Local Plan 2016-2031 Adopted November 2021 (LP) and Policy D3 of the London Plan 2021. Amongst other things, these seek to ensure that development respects the distinctive qualities, identity and character of the area.

Living conditions

9. I acknowledge that the overall bulk and mass of the proposal has been reduced. However, the closeness to the boundaries of both No 6 Porchester Close and No 15 combined with the still large building, in particular the mass, width and height of the roof, would be an overbearing feature that would dominate the outlook of the occupiers of these properties when viewed from their gardens.
10. The proposed development would have several large windows on the first floor West Elevation which would allow views towards the garden of No 6. The garden of No 6 is modest in size and as such, a large proportion would be visible from these first-floor windows. I am mindful of the well vegetated boundaries which are proposed to be retained, however, the height of the windows and views of most of the garden of No 6 would result in unacceptable overlooking and a loss of privacy for these occupiers.
11. In regard to the effect upon the privacy of the occupiers of No 15, I am satisfied that due to the distance between the windows and No 15 any overlooking would be confined to the end of the garden. Due to the overall size of the garden and most useable space that would likely be directly to the rear of No 15, I am satisfied that the degree of overlooking would not be unacceptably harmful.
12. Notwithstanding my findings on the impact on privacy for the occupiers of No 15, I conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers with regard to outlook and the privacy of the occupiers of No 6. It would be contrary to Policies 7 and 10 of the LP and Paragraph 135 of the National Planning Policy Framework (the

¹ APP/B5480/W/22/3306877

² Havering Local Development Framework – Emerson Park Policy Area Supplementary Planning Document Adopted February 2009

Framework). Amongst other things, these seek to ensure that the amenity and quality of life of existing residents is not adversely impacted.

Other Matters

13. The Council have found that there would be no unacceptable impact to highway safety, trees and the proposal would provide acceptable living conditions for future occupiers. While I have no reason to conclude otherwise, these are neutral matters.
14. I note that the appellant has referred to an appeal³ in an attempt to support their proposal. I do not have the full details in respect of this appeal so I cannot be sure of the circumstances. In any case, I have determined the appeal on its own merits, based on the evidence before me.
15. However, from the limited information in respect of this appeal I note that the proposal was for change of use from a dwelling to two flats which is different to the appeal before me.

Planning Balance

16. The proposal would be contrary to Policies 7, 10, 26, 27 and 28 of the LP and Policy D3 of the London Plan. These Policies are consistent with the Framework in focusing on ensuring that proposals establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live and create places with a high standard of amenity for existing users.
17. The Council conceded that it is unable to demonstrate a 5-year supply of deliverable housing sites in accordance with Paragraph 77 of the Framework. Paragraph 11 d) of the Framework indicates that, in such circumstances where the requisite housing land supply cannot be shown, the Policies which are important for determining the application should be deemed out-of-date and permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Policies in the Framework taken as a whole.
18. The proposed development would contribute to the supply of new homes in a situation where there is a shortfall. This attracts significant weight in favour of the proposed development. The proposal would also support the creation of jobs directly and indirectly during construction and result in future occupiers spending in the locality. Although this is tempered by the fact that the proposal is only for a single dwelling.
19. In this instance, the harm to the character and appearance of the area and living conditions of the occupiers of neighbouring properties would significantly and demonstrably outweigh the very modest benefits. As such, the proposal would not constitute a sustainable form of development in terms of the Framework.
20. Consequently, when assessed against the Policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.

³ APP/W5780/W/21/3266612

Conclusion

21. For the reasons given above the appeal should be dismissed.

D Wilson

INSPECTOR