



Appeal Decision

Site visit made on 1 October 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/B5480/W/24/3339230

Land North of 72-74 Queens Gardens, Havering, Rainham RM13 8EB

- 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 William Donaldson against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1711.23.
 - The development proposed is demolition of existing garage and new detached dwelling on land West of 15 Askwith Road.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and new detached dwelling at Land North of 72-74 Queens Gardens, Havering, Rainham RM13 8EB in accordance with the terms of the application, Ref P1711.23, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs has been made in respect of this appeal. This is the subject of a separate decision.

Preliminary Matters

3. I have amended the description of the proposal in my decision in order to omit elements that do not relate to acts of development.

Main Issues

4. The main issues are:
 - the effect of the proposal upon the living conditions of occupiers of nearby properties with particular regard to outlook and privacy, and;
 - the effect of the proposal upon the character and appearance of the area.

Reasons

Character and appearance

5. The appeal site is an area of land to the rear of 15 Askwith Road which currently contains a garage, along with trees and shrubs. To the west of the appeal site, beyond a close-board timber fence is a concrete parking and turning area, beyond which are semi-detached properties on Queens Gardens. To the south, are other areas of land of similar character, however a single residential building, 72 and 74 Queens Gardens ('72 and 74'), is situated at

the end of Queens Gardens and faces towards the appeal site. Queens Gardens has a mixed character comprising two storey dwellings, bungalows and three-storey blocks of flats of varying design approaches.

6. The proposal would introduce a residential dwelling of two-storeys in height and incorporating a hipped roof design. It would address the existing parking area, while providing parking for two vehicles within the site.
7. By being surrounded by rear gardens and land of a similar character, generally behind close boarded fences, the proposal would be of markedly different character to its immediate surroundings. However, it would be located at the end of a cul-de-sac, and its standalone nature would reflect the similar character of 72 and 74. Along with the eclectic character of the street, this means that it would not appear as harmfully incongruous. The fact that 72 and 74 were granted planning permission a number of years ago does not diminish the fact that the building exists and contributes to the character of the area.
8. The proposed dwelling would occupy much of the width of the plot, although some separation would remain. This would be reflective of the character of the area where I saw that dwellings tend to extend across much of the width of plots. The proposal would not, therefore, appear as unacceptably cramped.
9. It has been brought to my attention that an appeal relating to a new dwelling to the rear of 13 Askwith Road was dismissed in 2007, however I have been provided with no further details of this decision, or the proposal to which it related. Nevertheless, given that this decision would have been made prior to the adoption of both the current development plan and the most recent version of the National Planning Policy Framework ('the Framework'), this is not a fact which carries significant weight in my considerations.
10. Equally, I understand that planning permission has been granted for a dwelling to the rear of 11 Askwith Road, although it had not been constructed at the time of my visit. There are only limited details of this approval before me, however it is stated that the height of the approved dwelling would be much lower in height than the proposal now before me.
11. As I have identified above, Queens Gardens is characterised by a mix of buildings of varying heights located close to each other. Therefore, even if there were substantial difference in the height of the proposal before me and that previously approved at 11 Askwith Road, it has not been shown that it harm to the character and appearance of the area would result should both developments be carried out.
12. Overall, the proposal would not harm the character and appearance of the area. It would accord with Havering Local Plan ('HLP') Policies 7 and 26 which together, and amongst other factors, state that residential development should be of a high-quality design, that all development should respect and complement the distinctive qualities, identity and character of the site and local area and fully integrate with neighbouring developments.
13. The proposal would also accord with Chapters 11 and 12 of the Framework which highlight the importance of high-quality design and maintaining an area's prevailing character.
14. The Council has also found conflict with HLP Policy 10, however I have not been directed to any wording within this policy which makes specific reference

to the effect of garden and backland developments upon the character and appearance of the area. This policy is therefore of only limited relevance to this main issue.

Living conditions

15. The dwelling would be located beyond the rear garden of 15 Askwith Road. The appellant states that this property would be around 28 metres from the rear elevation of the proposal, and the Council has not disputed this. Although I have not been directed to any specific requirement for levels of separation between dwellings, I consider that this distance would be generous in the context of the character of the area. Furthermore, although the proposal would be a taller building than 15 Askwith Road and others in that street, as well as larger than the structure that currently exists on the appeal site, I consider that the proposal would be unlikely to result in an unacceptable actual or perceived loss of privacy, or a sense of being overbearing for existing occupiers of these properties.
16. The proposal would present a side elevation towards 72 and 74 Queens Gardens, however there would also be intervening areas of land between the properties, ensuring an appropriate level of separation would remain. This is also the case with regard to the side elevation of 19 Queens Gardens which would also face the proposal, but from across the concrete parking area. Furthermore, I saw that the only window in this elevation of 19 Queens Gardens contains an obscure glazed window meaning that the proposal would not harm the privacy of occupiers of this dwelling.
17. It is probable that future occupiers of the proposal would be afforded views across rear gardens of properties on Askwith Road, however these gardens are already overlooked to some degree by existing dwellings, including 72 and 74 as well as properties on Askwith Road itself. I therefore consider that there would not be unacceptable additional harm as a result of the proposal.
18. Given the level of separation which would exist between the proposal and those buildings that surround it, I conclude that it would not harm the living conditions of occupiers of nearby buildings with particular regard to outlook and privacy. It would accord with HLP Plan Policy 7 which states, amongst other factors, that residential development should protect the amenity of existing residents.
19. The proposal would also accord with advice within the Havering Residential Design Supplementary Planning Document which states that new development should have no detriment to existing residential amenity, as well as the general advice within Chapter 12 of the Framework in relation to the provision of high-quality buildings and spaces.

Other Matters

20. An interested party has raised concern that the removal of the existing building within the appeal site would lead to a loss of boundary demarcation between neighbouring areas of land as it is currently located on the shared boundary. I am satisfied that a scheme of boundary treatments associated with the proposal can be secured by means of a planning condition and would adequately address this concerns.

Conditions

21. The Council has suggested a number of conditions. Where necessary, I have amended them in order to ensure compliance with the relevant tests set out in the Framework and Planning Practice Guidance.
22. I have attached conditions relating to the time limit for the commencement of the development and to require compliance with the approved plans in the interests of clarity and the character and appearance of the area.
23. A condition relating to construction practices is attached in the interests of living conditions of occupiers of existing dwellings during the period of construction.
24. Conditions relating to the agreement of further details of proposed materials, boundary treatments, the agreement and implementation of landscaping measures, and the provision of refuse and recycling storage are all required in the interests of the character and appearance of the area.
25. I have also attached a condition in relation to the provision and retention of the proposed parking area in the interests of highway safety.
26. I have not attached the suggested condition relating to the installation Ultra Low NOx boilers as I have not been directed to any policy requirement for such a specification. It has not, therefore, been shown that this condition would be necessary in order to make the development acceptable in planning terms.
27. I have also not attached the suggested conditions in relation to the removal of permitted development rights. The Framework, at Paragraph 54, advises that planning conditions to restrict national permitted development rights should not be used unless there is clear justification for doing so. In this case, having regard to the location of the appeal site and separation of the proposed dwelling from other properties, it has not been shown that such restrictions would be necessary in this instance.
28. The Council also suggested conditions in relation to complying with the Building Regulations with regard to water efficiency and accessible dwellings. Planning conditions must relate to planning objectives and be within the scope of the permission. It is therefore unreasonable and unnecessary to attach conditions to control matters that are subject to other primary legislation such as the Building Regulations. Accordingly, I have not attached these conditions.

Conclusion

29. For the reasons given above, the proposal would be in accordance with the development plan. There are no material considerations, including the Framework, that indicate that a decision should be taken other than in accordance with it. Therefore, I conclude that the appeal should succeed.

C Harding

INSPECTOR

*****SCHEDULE OF CONDITIONS*****

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the drawing "General Plans P002.110 Rev A".
3. All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.
4. No above ground works shall take place in relation to any of the development hereby approved until a written specification of external walls and roof materials to be used in the construction of the building has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be constructed in accordance with the approved materials.
5. Prior to the first occupation of the development, the area set aside for car parking shall be set out, and retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose.
6. No works above ground level shall take place in relation to any of the development hereby approved until a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development has been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
7. Prior to the first occupation of the development, details of all proposed walls, fences and boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority. The boundary development shall then be carried out in accordance with the approved details and retained permanently thereafter to the satisfaction of the Local Planning Authority.
8. Prior to the first occupation of the development, refuse and recycling facilities shall be provided in accordance with details which shall previously have been submitted to and approved in writing by the local planning authority. The refuse and recycling facilities shall be permanently retained thereafter.

*****END OF SCHEDULE*****