



Appeal Decision

Site visit made on 8 April 2025

by **S J Warder BSc(Hons) MA DipUD(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

Appeal Ref: APP/B5480/Q/24/3355065

3 Heath Close, Romford, RM2 5QD

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to modify a planning obligation.
 - The appeal is made by Terence James Cording against the decision of the Council of the London Borough of Havering.
 - The development to which the planning obligation relates is change of use from garage to granny annexe.
 - The planning obligation, dated 12 November 2012, was made between the Council of the London Borough of Havering and Terence James Cording.
 - The application Ref P0375.24, dated 8 March 2024, was refused by notice dated 23 May 2024.
 - The application sought to have the planning obligation discharged as follows: removal from planning application P0859.12.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) has been updated since the appeal was submitted. However, while the numbering of paragraphs relevant to this appeal has changed, their substance has not. I have taken into account the updated Framework and referred to its paragraph numbering in this decision.

Background and Main Issues

3. Where an application is made to discharge a planning obligation, section 106A(6) of the Act requires consideration to be given to whether the obligation continues to serve a useful purpose. The officer report for application ref P0859.12 is clear that the proposed granny annexe would be acceptable only if it was tied to the host dwelling (3 Heath Close) in order to safeguard the character and appearance of the area and the living conditions of existing and future occupiers. The effect of the planning obligation is to restrict the occupation of the appeal building to relatives of the owners of the host dwelling and to prevent the building from being transferred, leased, let or alienated from the host dwelling.
4. As such, the main issues are the effects of the removal of the planning obligation on:
 - the character and appearance of the area, including the Gidea Park Conservation Area (CA);
 - the living conditions of future occupiers with particular regard to the size of the living space.

Reasons

Character and Appearance

5. The part of the CA in which the appeal site is located accommodates some of the most architecturally distinguished dwellings. The character of the area is defined by the generous size of the plots and houses and the prevalence of mature planting. As set out in the Council's Character Appraisal and Management Proposals, together with the historic interest derived from the way that it was developed with garden suburb aspirations by Sir Herbert Raphael, this gives the CA its heritage significance.
6. Heath Close is a short cul-de-sac closely lined by a small number of one and half and two storey dwellings and their outbuildings. The appeal building is a relatively modestly sized single storey converted former garage located in the rear garden of the semi-detached, two storey, host property. The retention of this subservient relationship and access arrangement ensures that the appeal building maintains its outbuilding characteristics and the prevailing layout and built form of Heath Close.
7. Removal of the requirements of the planning obligation would create a separate new dwelling. While no physical alterations to the building are proposed, the plot would be sub-divided, and a separate access and parking provision would be necessary. The resulting plot sizes of the host and new dwelling, and the small size and single storey form of the new dwelling would be at odds with both the remainder of Heath Close and the surrounding area.
8. The form and layout of the newly created dwelling would, therefore, be harmful to the character and appearance of the surrounding area and the CA. As such, the proposal would be contrary to Policy 26 of the Havering Local Plan 2016-2031 (LP) which requires proposals to respond to distinctive local building forms and patterns of development and respect the established scale, building grouping and height of their surroundings. Moreover, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to give special attention to the desirability of preserving or enhancing the character or appearance of the CA. Paragraph 210 of the Framework has similar aims. I note that the Inspector in an earlier appeal at the site (appeal ref APP/B5480/W/18/3204814) reached a comparable conclusion regarding the effect of sub-dividing the plot to create two separate dwellings.

Living conditions

9. Neither party has provided substantive new evidence on the effect of the proposal on the living conditions of occupiers. However, the Council relies on the conclusions of the earlier appeal. The Inspector in that case found that the overall floor area of the appeal building would be less than the minimum size required for a one bedroom, one person dwelling under the Technical Housing Standards. The size of the bedroom was also found to fall short of the required standard.
10. I note that the Technical Housing Standards have subsequently been replaced by Policy D6 of the London Plan 2021. However, the relevant minimum sizes have not changed. Therefore, I see no reason to disagree with the previous Inspector's conclusions on this matter. The proposal would not accord with London Plan Policy D6, or with LP Policy 7 to the extent that it has similar aims.

Other Matters

11. The appellant has referred to a similar development at 5 Heath Drive (application ref P0496.16) which was not subject to a comparable planning obligation. The Council's statement advises that that approval was, nevertheless, subject to a condition restricting occupation. Further, that the availability of an independent access in the appeal proposal justified the use of a planning obligation in its case. Each case should be considered on its own merits. While Framework paragraph 56 prefers the use of planning conditions over planning obligations, in this case the existing consent does not contain a condition preventing independent occupation. Therefore, it is necessary to rely on the existing planning obligation.
12. The appellant also refers to the difficulty in selling the host dwelling with the planning obligation in place. However, there is no substantive evidence to show that the property is unsaleable, and the planning system is concerned with the use of land in the public interest rather than the protection of private interests (Planning Practice Guidance paragraph ID: 21b-008-20140306). As such, the appellant's concern does not outweigh the harm that I have found.

Conclusion

13. For the reasons set out above, I find that the planning obligation continues to serve a useful purpose. No proposal has put forward to modify the obligation in a way that would allow it to continue to serve its purpose equally well. Therefore, the appeal should be dismissed.

S J Warder

INSPECTOR

