

| | |
|----------------|---|
| Appeal Ref | APP/B1550/A/07/2046547 |
| Application No | 06/01077/OUT |
| Appellant | Mr M Elliott |
| Location | 66-68 Rectory Road, Rochford, Essex SS4 1UE |
| Decision | Dismissed (01.11.07) |

The Inspector dismissed the appeal proposed to demolish 66 and 68 Rectory Road and erect 4x1 bedroom and 4x2 bedroom flats with 12 parking spaces, bin and cycle store. The Inspector took into consideration the Rochford District Replacement Local Plan, Supplementary Planning Document 2: Housing Design (SPD2), the Essex Design Guide as Supplementary Planning Guidance and Planning Policy Statement 1: Delivering Sustainable Development (PPS1).

The immediate area is predominantly characterised by detached and semi-detached bungalows. No. 70 Rectory Road is a detached two-storey dwelling with a garage within the rear garden area. Although the depth and bulk of the rear wing of the proposed flats would be visible from Harewood Avenue, in the Inspector's mind, this would not harm the character or appearance of the area.

SPD2 requires amongst other things that purpose-built flats do not give rise to large areas of hard-surfacing. Many properties within the area have parking to the front and side of the property, with some also having garages within the rear garden area accessed via a driveway along the flank boundary. The proposal provides 3 parking spaces directly adjacent to the front elevation of the proposed building, and 9 spaces adjacent to the rear boundary. Some landscaping is indicated to the frontage area and to the rear north, east and west boundaries. However, the Inspector was concerned that the limited space available for planting would make it difficult to establish effective landscaping to assimilate this hard-surfacing within the area. In the Inspector's view, the proposed access, circulation and parking layout would give rise to an unduly large area of hard surfacing which would be contrary to SPD2; it would dominate the appeal site and harm the character and appearance of the area. This would be contrary to Policies HP6 and HP11 which seek a high standard of layout and design which is compatible with its surroundings.

The Inspector felt the proximity of the access and parking areas to the rear gardens of 64 and 70 Rectory Road would result in noise and disturbance which would harm the quiet enjoyment of the garden areas for the occupiers of those properties. This would be contrary to SPD2.

Although the internal layout and position of windows are reserved for later consideration, the probable 2-storey arrangement makes it likely there would be some windows on the flank elevations. Due to the relationship between the proposed rear wing and the private sitting-out area of No 64, the Inspector was not convinced that a satisfactory internal layout of the proposed flat block could be achieved to safeguard the privacy of the occupiers of No 64. The proposal would harm the living conditions of the occupiers of adjacent properties. This would be contrary to Policy HP11(i) which requires proposals to have regard to the impact of traffic on the amenities of surrounding dwellings and Policy HP6.

The Inspector concluded that the proposal would not harm highway safety, however, for reasons given above and having regard to all other matters raised, dismissed the appeal.

Appeal Ref APP/B1550/A/07/2044729
Application No 07/00023/FUL
Appellant Hilliard Homes Ltd
Location 58 Victoria Avenue, Rayleigh, Essex SS6 9DB
Decision Dismissed (06.11.07)

The Inspector dismissed the appeal development proposed of 16 flats with parking. The Inspector took into consideration the Southend-on-Sea Structure Plan (policy BE5), the Rochford District Replacement Local Plan (Policy HP3, HP6 and HP11) and Planning Policy Statement 3.

The appeal site is located within an established residential area of predominantly detached and semi-detached dwellings. However, 24 to 26c Cheapside West are 6 flats, accommodated in two blocks which have the appearance of a single detached and a pair of semi-detached dwellings. The appeal site is currently occupied by a vacant bungalow and garden area with numerous established trees, some of which are preserved.

The Council raise no objection in principle to the redevelopment of the site for flats or the height of blocks A, B and C. However, they consider that the flats would not be compatible with the surrounding area in terms of their bulk and effect on spaciousness.

Blocks A and B are 2 storey and L shaped with deep returns adjacent to the proposed access road. Block C is also two storeys in height, would occupy nearly the full width of the site and would be sited adjacent to the rear boundary. The proposals would significantly reduce views through the site, to the vegetation along the rear boundary, and across the site, including sky views from Victoria Avenue. The depth of the return of Blocks A and B, the bulk of the rear building and their juxtaposition with one another, would result in a large mass of built form on the site and a poor layout. The Inspector felt the resultant effect on the street scene, when approaching from either the north or the south would be of a very dense form of development which would result in a loss of openness within the street scene.

The Inspector concluded that the proposal would harm the character and appearance of the area. This would be contrary to policies HP3, HP6 and HP11 which seek a high standard of layout and design which is compatible with the area and achieves an efficient use of land and dismissed the appeal.

APPEAL BULLETIN FOR NOVEMBER 2007



| | |
|------------|---|
| Appeal Ref | APP/B1550/A/07/2044729 |
| Appellant | Hilliard Homes Ltd |
| Location | 58 Victoria Avenue, Rayleigh, Essex SS6 9DB |
| Decision | Refused (06.11.07) |

The application is for a partial award of costs, in relation to addressing the Council's reason for refusal of application 07/00023/FUL.

The submissions for the applicant: The reason for refusal deals with street scene and overdevelopment but should have focused on what was wrong with the proposals. Harm has not been demonstrated on the evidence. The applicant does not understand how Policy HP11 could be implemented without some degree of change to the street scene.

The applicants consider that the Council objected to the principle of flats and not the actual proposal. This interpretation was supported by Councillor Mockford at the Inquiry. If Councillors had focused on the development plan policies they would have chosen a different form of wording for the reason for refusal.

The Council failed to demonstrate why the professional opinion of officers was not accepted. No explanation was given as to why the Council did not accept that the development plan would be complied with.

The response by the Council: The Council considered there was no substance to the costs application and it appeared the appellant was trying to bolster the merits of the case by making the costs application.

The applicant considers that it was unreasonable to refuse because it was based on the principle of flats being unacceptable. The application is therefore erroneous because the Council has provided evidence to the effect that the principle of flatted development was not the basis on which the application was refused.

Councillor Mockford is one voice in terms of the planning committee membership.

The officers' advice was not wrongly ignored. The judgement in this case is whether or not the proposal fits. Members are not required to accept an officer's recommendation. They reached a valid planning judgement on the merits of the case.

In the Inspector's view the Council amply explained its objection to the proposal and the harm that would be caused. Furthermore, it was confirmed at the Inquiry that the Council raised no objection to the principle of flatted development at the appeal site. It was the amount of development and the effect of the proposal on the street scene, rather than the principle of flatted development, which was of concern.

The Inspector concluded that the Council made its decision clearly and fairly on the planning merits of the proposal in relation to policy. Unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93 was not demonstrated, therefore, an award of costs was not justified.

Appeal Ref APP/B1550/A/07/2034686 & APP/B1550/A/07/2040703
Application No 06/00589/FUL & 07/00001/FUL
Appellant Mr D Howell
Location 1 Harper Way, Rayleigh, Essex SS6 9NA
Decision Dismissed (16.11.07)

The development proposed is: subdivide plot and construct two-storey building to provide 2 No. one-bedroomed flats. Existing garage to be demolished.

The two appeals differ from each other only in respect of their treatment of the end elevation of the proposed building and the detail of the porch. The Inspector, therefore, considered them together as far as was practicable. The Inspector took into consideration the Rochford District Replacement Local Plan (Policy HP3, HP6 and HP11).

The position of the proposed flats, relative to the general form of built development around the junction of Downhall and London Road is such that the new building would have a harmful and intrusive effect on the character and appearance of the area. The Inspector also considered that the additional noise and disturbance arising from the car parking arrangements associated with the additional households would have a harmful effect on the living conditions of the occupiers of 2 Harper Way.

The character of the wider area around the appeal site is derived from the openness of the road junction, the generous width of the footways and verges and the large open car park of the Travellers Joy public house. The side elevation of 1 Harper Way conforms to the building line of the houses on the eastern side of Downhall Road and serves to define the visual limits of the area around the junction. The proposed development would thus intrude upon the openness of this area and would have a visually constricting effect on views both into and out of it. The added elevation given to the proposal by the difference in levels between the appeal site and the adjacent pavement would emphasise the intrusive nature of the building and its harmful effect on the character and appearance of the area.

The potential already exists for three or four cars to be parked in the front garden of the appeal site, with up to three of these sited adjacent to the common boundary. However, whilst the current proposals would not increase that number in total, future car parking would be associated with three households rather than one. The additional vehicle movements and associated activity that would be generated by two further households would give rise to a proportional increase in noise and disturbance and have a harmful effect on the living conditions of the occupants of No 2.

Policies HP3 and HP6 require that account be taken of the wider visual impact of a scheme, its impact on residential amenity and relationship to existing and nearby buildings. Additionally, Policy HP11 requires that in areas of single family dwellings, flatted accommodation should be compatible with its surroundings in terms of height, bulk and spaciousness of the site. In that context, the Inspector concluded that the harm that would be caused by the proposed developments justifies dismissal of both appeals.

Costs Appeal Ref APP/B1550/A/07/2040703
Appellant Mr D Howell
Location 1 Harper Way, Rayleigh, Essex SS6 9NA
Decision Refused (16.11.07)

The hearing was in connection with an appeal against the refusal of planning permission for subdivision of plot and construction of two-storey building to provide 2 No. one bedroomed flats. Existing garage to be demolished.

The submissions for the appellant: It is the Appellant's contention that the proposed development fully accords with national and local planning policy and that the Council acted unreasonably in refusing planning permission contrary to the recommendation of its officers. This required the Appellant to pursue the development of the site through the appeal process, thereby incurring unnecessary expense.

The Council failed to provide evidence to substantiate the reasons for refusal, two of which are repetitive, imprecise and undefined.

The reasons for refusal make no reference to the policies of the development plan and fail to identify in what way the proposed development fails to comply with these.

There is no evidence that the Council fully considered National Planning Policy Guidance, in particular, PPG3 and PPS3.

The Council failed to include the third reason for refusal on the decision notice and only referred to this in its formal response to the appeal. The late introduction of this reason was unreasonable and involved the Appellant in unnecessary expenditure in contesting the additional ground of refusal.

The response by the Council: The Council pointed out that planning authorities are not obliged to adopt the advice of their officers but will be expected to show that they had reasonable planning grounds for not doing so. In this case it is considered that the Council has acted reasonably and that its decision is soundly based.

The reasons given in the decision notice are considered to be precise and supported by the evidence produced in its appeal statement. Although there is no specific reference to the policies of the development plan in the reasons for refusal, the decision notice indicates those on which it is based and these are explained in the Council's appeal statement. It is conceded that there is no reference to National Planning Policy Guidance but the style of the Council's reporting does not itemise Government advice.

It is also conceded that the Council omitted the third reason for refusal from the formal decision notice and did not subsequently re-issue the notice when this was brought to its attention. However, no harm was occasioned thereby since the reason was identical to that in an earlier decision on another application for similar development on the same site which was already the subject of an appeal. The Appellant had already prepared a case to counter the reason in the context of the first appeal and no further work was required to meet the same argument in relation to the present appeal.

The Inspector did not consider that the Council acted unreasonably in not taking the advice of its officers. The Council took a different view of the scale of the development and its effect on the character of the area. This view was expressed in the reasons for refusal and further explained in the Council's appeal statement. The Inspector agreed with the Appellant that the first two reasons for refusal are somewhat repetitive they are nonetheless complete, relevant and sufficiently precise to convey the Council's view of the effect of the proposal.

The omission of one of the reasons for refusal from the formal decision notice was unreasonable. The effect of this was to introduce, at a late stage in the proceedings, a further consideration with which the Appellant had to deal at the hearing. But for the fact that the Appellant had already responded to precisely the same reason in the course of appealing against an earlier decision on a similar application, there would have been a requirement for additional work and expense.

Whilst the Inspector found unreasonable behaviour on the part of the Council in respect of the deficient decision notice, it did not give rise to any additional expense on the part of the Appellant and there are thus no grounds for an award of costs.