



Appeal Decision

Site visit made on 17 October 2019

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal Ref: APP/B5480/W/19/3230530

Land to the rear of 9-11 Elm Road, Romford, RM7 8HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Prashad Jaitley (Lyonwood Ltd.) against the decision of the Council of the London Borough of Havering.
 - The application Ref P1939.18 dated 21 December 2018, was refused by notice dated 25 April 2019.
 - The development proposed is described on the application form as "Demolition of lock up garages and erection of 7 x 3 bed 5 person dwelling houses and provision of 14 car parking spaces and associated refuse and recycling and associated landscape works."
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of lock up garages and erection of 7 x 3 bed 5 person dwelling houses and provision of 14 car parking spaces and associated refuse and recycling and associated landscape works on land to the rear of 9-11 Elm Road, Romford, RM7 8HH, in accordance with the terms of the application Ref P1939.18 dated 21 December 2018, subject to the conditions set out in the attached schedule.

Procedural matters

2. My determination of this appeal is against the policies of the Core Strategy¹ and the London Plan². Although the Council and appellant's evidence both make reference to the emerging Local Plan³, which is at an advanced stage of preparation, the assessment of this document by an Inspector has not yet been completed following examination⁴. I also note that following the examination the Council has submitted further information to the Inspector including draft main modifications and that this will incur further consultation. Given the uncertainties regarding the outcome of that process, I have assigned the emerging Local Plan limited weight.
3. The appellant has submitted an amended site plan (Drawing No PA.03, Rev B) that confirms the width of the access road to be very slightly narrower than that shown on the original plans. Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* [1980], I am satisfied that the Council and third

¹ Core Strategy and Development Control Policies Development Plan Document, Adopted 2008, Havering London Borough.

² The London Plan, The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016.

³ Havering Local Plan (2016-31)

⁴ Strategic Plan Progress - 1 January 2020, GOV.UK website.

parties would not be prejudiced by my consideration of this plan as the difference is extremely small and it merely reflects the existing dimensions on-site which were visible for all to see before making comments. I have as a consequence considered the appeal on the basis of this amended plan.

Unilateral undertaking

4. Following submission of the appeal, the appellant submitted a signed and dated unilateral undertaking for a financial contribution towards primary and secondary education facilities. However, I note that the Council adopted a Community Infrastructure Levy (CIL) on 1 September 2019 and also confirmed that if the appeal decision was made after this date (which it has), the education contribution offered via the unilateral undertaking would no longer be necessary as the CIL payment would be the primary mechanism for its recovery. The Council has confirmed that the third reason for refusal would fall away in this instance and in light of all I have read and seen I have no reason to disagree with this position and have revised the main issues to reflect this.

Main issues

5. The main issues are:
 - the effect of the development on highway and pedestrian safety, with specific regard to whether the scheme makes adequate provision for safe access to and from the site;
 - whether future occupiers would be likely to experience acceptable living conditions in terms of outlook and amenity space provision.

Reasons

Appeal site context

6. The appeal site contains 26 garages organised in 3 blocks set around a central area of hardstanding. It is accessed via a narrow lane of approximately 3.0 to 3.5 metres wide and 40 metres long, which runs between Nos 9 and 11 Elm Road. At the time of my visit, I found the site to be overgrown and in poor condition.
7. The surrounding area is characterised by mature terraced and semi-detached 2-storey houses, and detached and semi-detached bungalows, with a wide variety of architectural styles.

Highway and pedestrian safety

8. The access road to the development is narrow and would preclude 2 cars passing one another, which would necessitate vehicles giving way to each other or having to reverse to allow the other to pass. I also note that the restricted width of the access road and adjacent footway would give rise to some conflict between vehicles and pedestrians/cyclists.
9. However, the access road is relatively short with good visibility along its length and Elm Road is relatively quiet where the general speed of vehicles would be low. The site access point is also close to the Elm Road junction with Mawney Road where I would expect drivers to be reducing their speed. As a consequence, even if vehicles did need to reverse, I would not consider this to present a significant risk to road safety or pedestrians and cyclists.

10. The submitted swept path analysis plans demonstrate that large cars/small commercial vehicles could access the site to make deliveries and that there would be sufficient space for vehicles to turn around safely in the central courtyard area with good visibility. I would also expect motorists to exercise considerable care and attention within the site given its constrained nature and am not convinced that vehicles sharing the space with pedestrians and cyclists would cause a significant safety hazard.
11. I do nonetheless agree with the Council and neighbouring residents that the narrowness of the access road and inability to provide visibility splays at its entrance point is not ideal and in most circumstances I would not consider it to be adequate. However, despite the recent limited use of the existing garage court, this could be brought back into use by the appellant and in my view this would have the potential to give rise to an intensification in traffic that would be commensurate to the scheme before me, but without any of the associated benefits to pedestrians and cyclists from better surfacing and a separate defined footway that the proposal would provide. I have also noted that there is no evidence before me to suggest that the proposed access road would be significantly more dangerous than that associated with the previous use, or that the garage courtyard has been harmful to highway and pedestrian safety. I have as a consequence given this fallback position substantial weight in my consideration, and am satisfied that when considered collectively with the proposed improvements to the access road that would benefit pedestrian and cyclists, this outweighs my concerns about the inadequacy of the access road width and lack of visibility splays.
12. In view of the above, I conclude that the development would not prejudice highway and pedestrian safety. The scheme would therefore accord with Policies DC32, DC34, DC35 and DC61 of the Core Strategy, which seek, amongst other things, to ensure that new development is easily accessible, does not have an adverse impact on the functioning of the road hierarchy and takes account of the need to improve conditions for pedestrians and cyclists.
13. I also conclude that the scheme does not conflict with Paragraph 109 of the Framework⁵ which states that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Living conditions

14. There are no prescribed numerical standards for private garden space in the Core Strategy, the London Plan or the Council's Design Guide⁶. Although the rear gardens may be smaller than those of neighbouring properties, the amount of space would be sufficient for 3 bedroom dwellings and not be significantly overlooked. I recognise that each garden would be enclosed by close-boarded fencing but am not of the view that this would be harmful to the outlook of future occupiers given its limited height, whether that be internally in a main habitable room, or externally in the rear private gardens. I also note that the dwellings have been designed with angled windows to reduce overlooking of neighbouring properties, but the outlook from these would still be relatively open and not be diminished by dominant or overbearing structures and buildings.

⁵ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

⁶ Residential Design Supplementary Planning Document, Adopted 2010, Havering London Borough.

15. In view of the above, I conclude that the development would not be harmful to the living conditions of future occupiers. The proposal would therefore accord with Policy DC61 of the Local Plan and Policy 3.5 of the London Plan, which collectively seek, amongst other things, a satisfactory standard of internal accommodation and external space to meet the needs of people of all ages.
16. I also find that the scheme complies with the objectives of the Council's Design Guide which seek, amongst other things, to ensure that all habitable rooms contain at least one main window with an adequate outlook and the delivery of high quality usable amenity space. The development would also accord with Paragraph 127 of the Framework which states that planning decisions should create places with a high standard of amenity for future users.
17. Despite the Council having referred to Policies DC36 and DC63 of the Core Strategy in its second reason for refusal, these relate to servicing and security, and not outlook or private garden space. I am as a consequence satisfied that the scheme is not in conflict with these policies.

Other matters

18. Although representations were made by interested parties in respect of a number of other matters, I did not consider these to be of such significance to alter my conclusions in respect of the main issues. The most significant of these other matters, if not already addressed above, are dealt with below.
19. I consider the amount of parking proposed to be adequate and commensurate with the location of the site within a built-up urban area in reasonable walking and cycling distance of local shops and services. I recognise that Elm Road is likely to be well-used in terms of numbers of cars parked on the road, but in my view the proposal would only have a minor impact in terms of overall numbers and parking stress levels would be within acceptable limits.
20. The local highway authority has not raised any concerns in respect of refuse collection arrangements and I see no reason to take a different view given the small size of the scheme. I am also satisfied that the refuse collection point would not harm the living conditions of neighbouring occupiers due to the limited timeframe in which waste would be placed at the collection point and retrieved by operatives.
21. Concerns have also been raised by third parties about the lack of access to the site by emergency vehicles. However, I am satisfied that it would be possible for an ambulance to access the site. Furthermore, given the site's close proximity to the road and the lack of any objections from the Local Fire Authority, I am satisfied that suitable access to the site could be achieved by the fire service in the event of an emergency.
22. I recognise that construction would cause some disruption but this would be temporary and would be mitigated by a Construction Method Statement which is the subject of a condition. The safe disposal of any hazardous waste from the existing garage roofs would be controlled under other legislation.
23. I am satisfied that the level of noise generated by vehicles and future occupants would be consistent with the surrounding residential area and that any significant disturbance could be suitably controlled under other legislation.

24. I have no substantive evidence to support the concern that additional traffic would result in an unsafe level of pollution and dust in the area, and the Council's Environmental Health Officer has not raised any objections on this matter.
25. Representations have also been raised about the scheme's contemporary design and choice of brick, but I am satisfied that it would not look out of place given the surrounding context of varied architectural styles and materials.
26. The layout includes a reasonable amount of natural surveillance, with dwellings facing onto a shared private forecourt/lane, and so has been designed to reduce the risk of crime. Although no external lighting is proposed, I am satisfied that the opportunity exists for the developer or future occupiers to install porch lights which will provide a sufficient amount of illumination at night and I am not of the view that public street lighting is necessary given the small size of the scheme. Furthermore, the development would provide greater natural surveillance over the area and discourage unauthorised access to the rear of most of the adjacent properties. As a result the opportunities for crime and anti-social behaviour would be likely to reduce when compared with the existing use which offers little or no surveillance.
27. Although representations have been made in respect of loss of privacy to neighbouring properties, I am satisfied that the dwellings have been designed to restrict any overlooking through careful orientation of windows and proposed boundary fencing.
28. Neighbours have raised concerns in terms of loss of outlook arising from built-form height, but in view of the intervening distances between the dwellings and neighbouring properties, I am satisfied that the development would not appear oppressive or intrusive. For similar reasons I am satisfied that the development would not significantly restrict light to neighbouring properties.
29. There is no substantive evidence to support the concerns raised in respect of localised flooding from an underground stream to the rear of Nos 7 and 9 Elm Road, and there are no objections from relevant professional consultees on these matters. Having considered all of the evidence before me I am satisfied that the matter of surface water drainage can be addressed via planning condition.
30. Concerns have also been raised that the development would result in the loss of a valuable habitat for wildlife. However, the appeal site is not designated for wildlife purposes and no European or nationally protected species of animal or plant life have been found to be present on the site. In view of this and the small-scale nature of the development, I would not consider it justifiable to withhold permission on this basis.
31. Although concerns have also been raised in respect of loss of property value, planning is concerned with land-use in the public interest and not the protection of purely private interests. Other concerns have been raised that the scheme would restrict access to the air-bricks of a neighbouring house extension and an easement for a side gate onto the access road. However, issues relating to access and rights of way are a private matter between the parties and planning permission would not override these.

Conditions

32. The Council has suggested conditions which I have considered in the light of the Framework and Planning Practice Guidance. A condition has been imposed to ensure the scheme is carried out in accordance with the submitted plans. It is not necessary to impose separate conditions requiring the bin and bike stores to be ready for use prior to occupation as these form an integral part of the proposed dwellings. I have attached conditions regarding the materials to be used, tree protection measures, landscaping implementation and replacement planting to ensure that the appearance of the development is satisfactory. It is not necessary to impose a condition for details of hard and soft landscaping (to include boundary treatment) as this is shown on the submitted details and is considered acceptable.
33. Given that there are no significant variations in land levels between the appeal site and neighbouring gardens, I do not consider it necessary to impose a condition requiring details of land levels. However, in view of the close proximity of the site and access road to neighbouring dwellings and gardens, a condition has been imposed for details of a construction method statement to protect the amenities of adjacent residents.
34. Given the compact size of the rear gardens and to protect the privacy of neighbouring occupiers, I have imposed a condition removing permitted development rights to construct any extensions, alterations and outbuildings. I do however consider it necessary to impose a condition requiring the provision of garden sheds to the rear gardens for the storage of garden implements and other general household paraphernalia.
35. Given the large expanse of hard surfacing proposed, I consider it necessary to impose a condition for a surface water drainage scheme to prevent potential flooding which could give rise to highway and pedestrian danger.
36. In view of Policy 5.15 of the London Plan setting out enhanced technical requirements relating to water use, I am satisfied that a water efficiency condition would accord with the Planning Practice Guidance and have accordingly imposed a condition. I have also imposed a condition to ensure the dwellings are constructed to accessible standards to meet the requirements of Policy 3.8 of the London Plan.
37. I am satisfied that the level of noise generated by future occupants would be consistent with the surrounding residential area and that any significant disturbance could be suitably controlled under other legislation. A condition to ensure that the buildings are sound insulated against airborne noise in accordance with details to be submitted to the Council is not therefore necessary.
38. In accordance with Paragraphs 4.3.20 and 4.3.21 of the Mayor of London's Supplementary Planning Guidance on Sustainable Design and Construction⁷ and Policy 5.3 of the London Plan, I have imposed a condition requiring any boilers used in the development to meet an appropriate nitric oxide (NOx) emission standard.

⁷ Sustainable design and construction, Supplementary Planning Guidance, April 2014, Mayor of London

Conclusion

39. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details:- Drawing nos. PA.01, PA.02, PA.03 (Rev B), PA.04 (Rev A), PA.05 (Rev A), PA.06 (Rev A), PA.07 (Rev A), PA.08 (Rev A), PA.09 (Rev A), PA.10 (Rev A), PA.11 (Rev A), PA.12 (Rev A), PA.13 (Rev A), 19004-13-T, 217-PL-001, 217-PL-002, 217-PL-003, 2018-3450-001, 2018-3450-002, 2018-3450-003, 2018-3450-004, 2018-3450-005, Transport Statement dated November 2018 and the Design and Access Statement dated 20 December 2018.
- 3) No development works, aside from those relating to the demolition of the garages and removal of the existing hard surface, shall take place until details of all external facing materials and finishes have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details and finishes.
- 4) No development works, aside from those relating to the demolition of the garages and removal of the existing hard surface, shall take place until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority and the approved dwellings shall not be occupied until the drainage scheme has been implemented in accordance with the approved details.
- 5) All existing trees shown on the landscaping plans to be retained (Drawing Nos 217-PL-001, 217-PL-002, 217-PL-003) and falling within the red line shown on the site plan (PA.01) shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels and tree root zones within those areas shall not be altered, nor shall any excavation be made (for hard surfacing, access, drainage and other services), without the prior written consent of the local planning authority.

- 6) No development works, aside from those relating to the demolition of the garages, shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Construction Method statement shall include details of:
- a) delivery and construction working hours;
 - b) parking of vehicles of site personnel and visitors;
 - c) storage of plant and materials;
 - d) dust management controls;
 - e) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
 - f) siting and design of temporary buildings;
 - g) a readily visible 24-hour contact number for queries or emergencies;
 - h) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded;
 - i) details of vehicle wheel cleansing facilities.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No dwelling hereby permitted shall be occupied until a layout plan, elevation design and external dimensions for a detached timber or metal shed in each rear garden for the storage of garden implements and other household paraphernalia have been submitted to and approved in writing by the local planning authority (which should be no less than 6 feet by 8 feet or equivalent square feet in floorplan size, not including any external veranda or porch, and no greater than 8 feet by 10 feet or equivalent square feet in floorplan size, not including any external veranda or porch). The development shall thereafter be carried out in accordance with the approved details prior to the occupation of any dwelling.
- 8) All dwellings hereby approved shall be designed and constructed to meet a water efficiency standard of 105 litres or less per head per day, and 5 litres or less per head per day for external water use.
- 9) All dwellings hereby approved shall be constructed to comply with Part M4(2) of the Building Regulations – Accessible and Adaptable Dwellings.
- 10) In the event that any gas boilers are to be used in the development, and unless otherwise agreed in writing by the local planning authority, these shall be designed and constructed to meet a dry NO_x demission rate of <40mg/kWh.
- 11) No dwelling hereby permitted shall be occupied until the hard and soft landscaping, to include boundary treatments, has been carried out in

accordance with the approved plans. Any trees, hedges or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No new tree or hedgerow planted in accordance with the above landscaping condition shall be pruned or cut in any manner within 5 years from the date of the occupation of the final dwelling to be occupied, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification):

- a) no external alterations (to include new windows or other openings and enclosure of the carport and porch areas), extensions, porches, roof extensions, roof light windows, roof enlargements or dormer windows shall be carried out to any part of the dwellings hereby approved without the specific grant of planning permission from the local planning authority;
- b) no buildings or other structures shall be erected or constructed (aside from those shown on the approved plans or otherwise approved by the local planning authority in connection with other conditions) within any part of the curtilage of any dwelling hereby approved without the specific grant of planning permission from the local planning authority.

End of Schedule