



Appeal Decision

Site visit made on 3 February 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/B5480/W/19/3234747

115 Victoria Road, Romford, Essex RM1 2LX

- 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 Kara Capital Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P0260.19, dated 7 February 2019, was refused by notice dated 4 July 2019.
 - The development proposed is the demolition of storage building and erection of detached 2-storey building to accommodate a 9-room HMO with an external staircase.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site edged red location plan, Ref. VR-1, includes 115 Victoria Road, 115C Victoria Road to its rear and a further building and area of hardstanding at the end of the plot. However, it is clear from the evidence that other than a shared access route, the proposed development concerns only the rear part of the site, to the north of No 115C.
3. Planning permission was originally sought for the erection of an 11-room HMO¹ at the appeal site. However, it is clear from the evidence that during the application process the scheme was amended, including so as to reduce its scale to a 9-room HMO, with consequent changes to the design and internal layout.
4. I have, therefore, amended the description of the proposed development in the banner heading above, so that it reflects the revised scheme.
5. Unfortunately, the Council's officer report and decision notice refusing planning permission both describe the original proposal, despite also referencing the revised drawing – Ref. VRR-01B – showing a 9-room HMO.
6. I note that the Council has now acknowledged these mistakes and considers that their stated reasons for refusal, supported by the officer report, would apply equally to a 9-room HMO as to an 11-room HMO. I also note the appellant's comments in this regard.

¹ House in Multiple Occupation.

7. Whilst accepting the appeal development would be of a reduced scale to that referenced by the Council, with consequent impacts upon the Council's stated concerns, I am satisfied that these concerns are still relevant.
8. On 13 February 2020 the Government published the 2019 Housing Delivery Test (HDT) results, which take effect from 14 February. The HDT results show that the London Borough of Havering has delivered just 33% of its housing requirement over the latest 3-year period, 1,167 dwellings. Consequently, the presumption in favour of sustainable development contained in the Framework would be engaged².
9. I put the publication of the HDT results to the main parties and sought their views on them, in relation to this appeal and I have had regard to the responses received.

Main Issues

10. The main issues are the effect of the proposal on:

- The living conditions of future occupiers, with particular regard to safety and security; and, outdoor amenity space
- The living conditions of nearby occupiers, with particular regard to overlooking and loss of privacy; and, noise and disturbance
- Housing delivery.

Reasons

11. The appeal site is on the northern side of Victoria Road, to the east of Romford town centre. A footway provides access to the rear of the site from Victoria Road, and also serves the flats at 115A and B within the main building. 115C is a separate single storey dwelling to the rear of No 115.
12. The rear area is abutted by an elevated railway embankment to the north, and by the backland *Midland Court* office development, including Nos 3-6 and a surface car park to the west. Small-scale industrial buildings and associated hardstanding are located to the east of the appeal site, with No 115C to the south.

Living conditions of future occupiers

13. The proposed development would entail the demolition of the existing building to the north of No 115C and the erection of a 2-storey, pitched-roofed building which would serve as a 9-room HMO. The nine rooms would be en suite, and a communal kitchen and lounge area would be provided on each floor, at the northern end of the building, with windows facing towards the railway embankment. A bin storage area would be located to the south of the proposed building, by the fire exits / entrances, including an external staircase from the first floor.
14. The Metropolitan Police has objected to the proposal on crime and safety grounds³, and I note that they consider HMOs to be at particular risk of certain types of crime, and so require higher security standards. The appellant has not disputed these comments but has indicated that such comments were not passed to them prior to the determination of the application.

² Footnote 7 and paragraph 215 b) of the Framework

³ Including the concerns set out in Paragraph 3.1 of their consultation response.

15. I have no reason to doubt the comments of the police, and whilst some of their concerns could be addressed by way of suitably worded conditions, I am not satisfied that it would be possible to address all of them, without significantly altering the proposed development. In particular, measures in relation to the bin and cycle storage areas, external lighting, and, to improve natural surveillance, particularly as there are other dwellings in the vicinity.
16. No outdoor amenity space would be provided as part of the proposed development, which the appellant states is not expressly required by the HMO guidance⁴ provided by the Council. However, I am not certain of the status of this guidance in planning terms, which is not referenced in the Council's officer report or statement. In any event, an HMO is a place where people live, and so the guidance in the Council's Residential Design Supplementary Planning Document 2010 (RDSPD), and which is referenced by the Council, would also be relevant.
17. The RDSPD states that '...every home should have access to suitable private and/or communal amenity space...'. I note the appellant's comments regarding Raphaels and Hylands Parks as possible alternatives for future occupiers. However, no details of travel times are provided and even if the parks were only a short distance away, using them would be significantly less convenient than using an appropriate outdoor space at the appeal site. Furthermore, access to nearby parks is not listed as a solution to this requirement in the RDSPD.
18. For these reasons, the proposed development would adversely affect the living conditions of future residents, with particular regard to safety and security and outdoor amenity space. It would, therefore, conflict with Policies DC61 (urban design) and DC63 (delivering safer places) of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (HCSDCPDPD), and Policy 7.3 (designing out crime) of the London Plan 2016⁵ (LP).

Living conditions of nearby occupiers

19. The main entrance to the proposed building would be on its western elevation, which would also provide windows for the nine residential rooms, which would overlook the Midland Court car park and the largely blank eastern gable elevation of Nos 3-6. The position of the windows on the northern and western elevations of the proposed building, means that views from the proposed building would not result in harmful overlooking of nearby properties.
20. The access for the proposed development would be an extension of the existing access serving Nos 115A/B/C, located down the western side of the appeal site. Towards the front of the appeal site, the western boundary is not formally demarcated, including by Nos 115A and B. A timber/concrete panel fence, some 1.8 metres high extends rearwards along the boundary, past No 115C, until it reaches Nos 3-6 Midland Court, where it is replaced by a lower, chain-link fence.
21. At the present time the narrow land between No 115C and the boundary fence is used as a garden by the occupier of this property. The proposed development would see this land divided into two; the access to the proposed development would occupy the western part of the land, with the eastern part, closest to No 115C, becoming the private amenity space for that property.

⁴ East London HMO guidance (4)

⁵ The Spatial Development Strategy for London consolidated with alterations since 2011.

22. The future occupiers of the proposed 9-room HMO would have to walk past the private garden area of No 115C to access their accommodation. No boundary treatment is shown on the submitted drawings meaning there would be a significant loss of privacy and an increase in disturbance for the occupier of No 115C, both in their private garden and in the dwelling itself.
23. I note the appellant's comments regarding the erection of a 1.8 metre high fence to screen the dwelling from the access pathway. This is not part of the appeal proposal. Whilst such a fence could protect the privacy of the occupier of No 115C, in so doing it would significantly and unacceptably reduce their outlook, from both the garden and the dwelling. A fence that would be high enough to screen the dwelling and prevent harmful overlooking and disturbance, would be too restrictive in terms of outlook. Consequently, a condition requiring such a fence to be erected would not meet the test of reasonableness⁶.
24. The scale and position of the proposed 9-room HMO, together with the proposed access arrangements, would be likely to cause unacceptable noise and disturbance to the occupier of No 115C. The Metropolitan Police service states that there is a particular risk of certain types of crime associated with HMOs, including anti-social behaviour.
25. I note the appellant's comments about the previous storage use in the existing building to the north of No 115C, and the effects of reverting to this use on the occupier of the dwelling. No substantive evidence has been provided regarding the current lawful use of the building to the rear of No 115C, or of No 115C, or the extent of its curtilage.
26. In any event, regardless of whether the previous storage use was lawful or not, the provision of a 9-room HMO would be likely to significantly increase pedestrian movements past No 115C compared to such a storage use. Consequently, it would appreciably worsen the impacts on the occupier of No 115C.
27. For these reasons the proposed development would cause unacceptable harm to the living conditions of the nearby occupiers, with particular regard to overlooking and loss of privacy; and, noise and disturbance. It would, therefore, conflict with policies DC5 (specialist accommodation) and DC61 of the HCSDCPDPD.

Housing Delivery

28. The 2019 HDT results show that the Council has substantially under-delivered against its housing requirement over the latest 3-year period⁷. Consequently, the presumption in favour of sustainable development contained in the Framework is engaged⁸.
29. The delivery of a 9-unit HMO in an area that has experienced a substantial under-delivery of homes in recent years, carries some weight.
30. The proposed development is supported by Policies CP1 (housing supply) and DC2 (housing mix and density) of the HCSDCPDPD. These policies are

⁶ Paragraph 55 of the National Planning Policy Framework 2019 (the Framework).

⁷ 2016-17, 2017-18, and, 2018-19

⁸ Footnote 7 and Paragraph 215 b) of the Framework.

generally consistent with the Framework, and I therefore give this support weight.

31. However, the proposal would also conflict with Policies CP17 (design), DC3 (housing design and layout), DC5, DC61 and DC63 of the HCSDCPDPD and Policy 7.3 of the LP. These policies are generally consistent with the Framework, and I therefore give these conflicts weight. On balance, the proposal would conflict with the development plan as a whole.
32. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance⁹.
33. The proposed development would be supported by parts of the Framework. In particular, policies to increase the supply of housing and support economic growth.
34. However, the harm to the living conditions of future and nearby occupiers, as set out above, means that there would also be conflict with Framework policies that support the effective use of land, promote healthy and safe communities, and achieve well-designed places.
35. In my view, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
36. The proposed development would conflict with the development plan overall, and there are no material considerations that would cause me to determine this appeal other than in accordance with the development plan for the area. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Other Matters

37. From the evidence the Council has made some significant mistakes in their processing of the planning application that is the subject of this appeal. The appellant has also raised further concerns regarding what they consider to be errors, omissions and inconsistencies from the Council, including with regard to communication.
38. It is not possible for me to know all of the details of what occurred prior to the refusal of planning permission, nor would it affect my determination of this appeal, which I have considered on the basis of the submitted evidence and with appropriate regard to the development plan and material considerations.

Conclusion

39. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

⁹ Footnote 6 of Paragraph 11 d i) the Framework provides a complete and exhaustive list of such policies.