The Planning Inspectorate

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/19/3239425
17 Hall Lane, Upminster RM14 1AF

- 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 Shapeup Investments Ltd against the decision of the Council of the London Borough of Havering.
- The application Ref P0614.19, dated 24 January 2019, was refused by notice dated 12 June 2019.
- The development proposed is the construction of three apartments across the ground and lower ground floor nearer the end of the garden with a basement car park excavated at the rear end of the site; and, the demolition of the existing 5-bedroom house and the erection of a 4-storey building creating six apartments with associated car parking and landscaping.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposed development from the Council's Decision Notice, with minor amendments, because it more accurately describes what is proposed.

3. 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 engaged[1].

4. I put the publication of the HDT results to the main parties and sought their views on them in relation to this appeal. I have had regard to the responses received.

Main Issues

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

    - The character and appearance of the area
    - The living conditions of nearby occupiers, with particular regard to noise and disturbance

[1] Footnote 7 and paragraph 215 b) of the Framework

- Housing Delivery.

Reasons

6. The Council granted planning permission for a development at the appeal site on 16 May 2019[2]. This was for the demolition of the existing dwelling and the erection of a 4-storey building creating six apartments, with associated landscaping and car parking. A section 106 planning obligation was also agreed totalling £12,000, which whilst less than would ordinarily be required for a development of this scale, took account of another recent decision at the appeal site[3].

7. The appeal scheme includes very similar works to those previously approved. The minor changes would include a reduction in size of the ground floor flat's patio; a changed layout to the ground floor flat from the creation of integral cycle and refuse storage areas for the building; a small rear extension to the ground floor flat and a small reduction in the rear area of hardstanding.

8. I have had regard to this recent decision in determining the appeal before me, and I attach significant weight to it.

Character and appearance

9. The appeal site is on the western side of Hall Lane, a short distance from Upminster station and nearby shops. Hall Lane is a predominantly residential street, which in the vicinity of the appeal site contains a mix of large, detached dwellings and 3-storey blocks of flats. The dwellings are generally of a traditional design with small front gardens and substantially larger gardens to the rear, some of which contain ancillary outbuildings[4] of various sizes.

10. No 17 is a large detached dwelling with an area of hardstanding to the front where vehicles can be parked, with a long back garden bounded by walls and solid timber fences around 1.7 metres high. The rear garden is predominantly grass, with some low-level shrubs, and slopes gently upwards from the rear of the dwelling. It contains various pathways and patio areas, and a number of outbuildings, typical of rear gardens in this area.

11. To the immediate south of the appeal site lies the L-shaped Hurstwood Court development, which faces onto Hall Lane and Waldegrave Gardens, and is at a somewhat lower elevation than No 17. It contains an extensive and generally open landscaped area to the rear of the 3-storey apartment buildings, with a mature hedge along part of the boundary with No 17. Adjacent to this, in the northwestern corner of the Hurstwood Court grounds, are two rows of garages, providing parking for the residents. To the north and to the rear of the appeal site are similar detached dwellings with long rear gardens, with some outbuildings and mature vegetation.

12. The appeal site lies within Zone A of the Hall Lane Policy Area (HLPA), for which there is a Supplementary Planning Document (SPD) providing guidance for future development and which aims to maintain or enhance the special character of the area.

[2] LPA Ref. P1432.18
[3] LPA Ref. P1413.17, which was determined at appeal - Ref. APP/B5480/W/18/3193040
[4] Said to be used as Pool Houses, Gyms, Summer Houses or Home Offices

13. The SPD states that 'The area's character derives primarily from the long and well landscaped rear gardens whose size and good tree cover create unusual spaciousness which is extensive and uninterrupted'. From the evidence and my observations on site, I would not disagree.

14. I am satisfied that the design, scale, massing and siting of the proposed 4-storey building, to be constructed towards the front of the site, would not detract from the character and appearance of the area. The proposed replacement building would not be significantly different to the building previously approved, in this regard.

15. However, the proposed development would also entail the erection of a modern, timber building containing three flats in the rear garden area. This is not previously developed land, as defined in the glossary to the National Planning Policy Framework 2019 (the Framework). Underground car-parking for six vehicles, an extended access drive, a cycle store and private and communal garden areas would also be provided. The two rear flats would be duplex units at ground and lower ground floor levels, whilst the third, smaller flat would be at ground level only.

16. The introduction of three new residential units, together with the underground car park, would be a significant and adverse change to the character of the rear garden and the prevailing pattern of development in the area.

17. Furthermore, the proposed building would project some 3.0 metres above ground level and would be significantly larger, and so more visually prominent, than the existing outbuildings at the appeal site. The 'green' roof of the proposed building would not significantly reduce this prominence. Together with the extended driveway and associated hardstanding, the scale, massing and position of the proposed building in the rear garden would be incongruous and would detract from the open and spacious character and appearance of this part of the HLPA.

18. Reference is made to other outbuildings said to have been constructed in the area. I am not fully familiar with these examples, which are shown as annotations on an aerial photograph. From the limited evidence, only one of the buildings would be of a comparable size to the proposed building, and in any event each proposal should be determined on its own merits, which is what I have done in this case.

19. Reference is also made to the Hurstwood Court development next door, including the proximity of the two rows of garages there. Hurstwood Court is a significantly different development, of a different design and on a much larger scale, addressing both Hall Lane and Waldegrave Gardens. It is not directly comparable to the appeal development, which would be on a smaller, single-aspect site.

20. For these reasons the proposed development would adversely affect the character and appearance of the area. It would therefore conflict with Policies DC61 (urban design) and DC69 (other areas of special townscape or landscape character) of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (HCSDCPDPD), the HLPASPD 2009 and the Framework, in this regard.

Living conditions

21. The proposed underground car park for the rear building would accommodate up to six vehicles. The associated access driveway would extend along the southern boundary of the appeal site, adjacent to the boundary with Hurstwood Court, and lengthening the shorter driveway previously approved[5].

22. The proposed garage entrance and part of the driveway would be next to the two rows of garages at Hurstwood Court. Furthermore, the underground location of the proposed garage means that part of the driveway would be below the surface, limiting noise and disturbance from vehicles using it, to some extent.

23. However, the driveway would be next to part of the communal gardens at Hurstwood Court, and close to the rear gardens of other nearby dwellings. The use of the driveway by up to six additional vehicles would increase noise and disturbance to nearby occupiers, particularly in their gardens. In comparison with the existing situation, and the recently approved development, such an increase would be significant and detrimental.

24. The appellant refers to cars 'generally becoming quieter with more hybrid and electric cars'. However, no details of charging points for such vehicles have been provided, and there is nothing to demonstrate that the basement car park would only be used by such vehicles.

25. For these reasons the proposed development would adversely affect the living conditions of nearby occupiers with particular regard to noise and disturbance. It would, therefore, conflict with Policy DC61 of the HCSDCPDPD in this regard.

Housing Delivery

26. The 2019 HDT results show that the Council has substantially under-delivered against its housing requirement over the latest 3-year period[6]. Consequently, the presumption in favour of sustainable development contained in the Framework is engaged[7].

27. The delivery of three new homes, alongside the six dwellings previously approved, in an area that has experienced a substantial under-delivery of homes in recent years, carries some weight.

28. The proposed development is supported by Policies CP1 (housing supply), and DC33 (car parking) of the HCSDCPDPD; and, Policies 3.3 (increasing housing supply) and 6.13 (parking) of the London Plan 2016[8] (LP). These policies are generally consistent with the Framework, and I therefore give this support weight.

29. However, the proposal would also conflict with Policies CP2 (sustainable communities), CP17 (design), DC3 (housing design and layout), DC61 and DC69 of the HCSDCPDPD and Policies 3.5 (quality and design of housing developments) and 7.4 (local character) of the LP. These policies are generally consistent with the Framework, and I therefore give these conflicts weight. On

[5] LPA Ref. P1432.18
[6] 2016-17, 2017-18, and, 2018-19
[7] Footnote 7 and Paragraph 215 b) of the Framework.
[8] The Spatial Development Strategy for London consolidated with alterations since 2011.

balance, the proposed development would conflict with the development plan as a whole.

30. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance[9].

31. The proposed development would be supported by parts of the Framework. In particular, policies to increase the supply of housing and support economic growth.

32. However, the harm to the character and appearance of the area and the living conditions of nearby occupiers, 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.

33. 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.

34. The proposal 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

35. Following the introduction of a Community Infrastructure Levy (CIL) on 1 September 2019, the Council has accepted that a planning obligation to deal with the impacts of the proposed development on education provision in the area is no longer necessary.

36. Reference is made to the retention of the TPO-protected tree to the front of Hurstwood Court and the biodiversity value of the 'green' roof. When compared to the existing situation, there would be no significant change as a result of the proposed development in these regards.

Conclusion

37. 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.