



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/19/3238680

Land to the rear of 47-51 High Street, Hornchurch RM11 1TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Hasan Huseyin Gelmen against the Council of the London Borough of Havering.
 - The application Ref P0065.19, is dated 15 January 2019.
 - The development proposed is the demolition of the existing garages and construction of three dwellings houses including new public realm, landscape amenity space, car parking and all associated works.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal site, edged red on the location plan, is not directly connected to the public highway. It is connected to a servicing area to the rear of properties facing onto both Billet Lane and High Street, with pedestrian and vehicular access from Billet Lane, and pedestrian access from High Street. From the evidence, this servicing area is not in the ownership of the appellant¹. As a duly appointed Planning Inspector I have the right of access to such land² in order to inspect an appeal site, which I exercised in this case.
3. The address of the appeal site on the application form and the appeal form are inaccurate and I have, therefore, amended the address in the banner heading above to better describe its actual location.
4. 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 engaged³.
5. 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.

¹ Including with regard to Planning Practice Guidance (PPG) - Paragraph: 024 Reference ID: 14-024-20140306
Revision date: 06 03 2014.

² Section 324 of the Town and Country Planning Act 1990.

³ Footnote 7 and paragraph 215 b) of the Framework

Background and Main Issues

6. The Council's Statement shows that had it determined the submitted planning application it would have been refused. Consequently, the main issues are the whether the proposed development would provide:
- Suitable living conditions for future occupiers, with particular regard to outlook, noise and disturbance
 - Suitable vehicular and pedestrian access
 - Housing land supply and housing delivery.

Reasons

7. Pre-application advice was provided to the appellant in December 2017, which informed a planning application for the erection of a 3-storey building containing nine residential units above a basement car park at the appeal site. This application was refused by the Council on 13 June 2018. The appeal proposal is said to have been developed in light of the pre-application advice and the refusal of the previous planning application.

Living Conditions

8. The appeal site contains six flat-roofed garage-type buildings on its western edge, with two separate pitched-roofed garages on its southern edge. The site is surfaced with gravel and two vans and two cars were parked there at the time of my visit in the late morning.
9. The appeal development would entail the demolition of the existing buildings on the site and the erection of a short terrace of three dwellings. The dwellings would be 2-storey, each with dormer windows in their pitched roofs to the front and rear. The appellant intends to achieve a high standard of noise insulation for the proposed dwellings, including triple-glazed windows.
10. Each dwelling would have a small private garden to the rear, enclosed by an acoustic boundary fence some 2.0 metres high. To the front of the terrace would be a landscaped communal area containing three car parking spaces, cycle and refuse/recycling storage areas, with a brick / railing boundary treatment, some 1.0 metres high.
11. As referenced above, the proposed dwellings would face towards the rear elevations of 2-storey buildings on Billet Lane, across a predominantly unsurfaced servicing area. These buildings, and similar ones on High Street, have shop-type uses at ground floor level, with flats above, some of which are accessed from the rear service area. The service area contained 14 cars, and 11 predominantly commercial-sized refuse bins at the time of my visit. There was also a skip and various other items of waste material present.
12. The outlook from the front elevation would be towards the service area, with its commercial refuse bins and general rubbish, and the rear of the mixed-use buildings fronting onto High Street and Billet Lane, which contain various outbuildings, steel palisade fencing, fume extraction flues and air conditioning units.
13. Whilst there are upper floor flats in these buildings which also have an outlook over the service area, such an outlook would not be unusual given the type of

dwelling and the mix of uses within the buildings. Nevertheless, the position and layout of the proposed purpose-built dwellings, with amenity space and habitable rooms close to and facing towards the service area / rear elevations and with only limited screening, would provide a detrimental outlook for future occupiers.

14. Notwithstanding the appellant's stated intention to improve the vehicular and pedestrian access to the site, which would include parts of the service area, and which I address more fully below, only limited details of the proposed improvements are provided.
15. No details of the ownership of the service area have been provided and there is no evidence that the appellant has any control over it, and so would be unable to undertake any such improvement works. Whilst the details of some improvement works could, potentially, be controlled by way of a condition, in this case, I am not satisfied that such a condition would be reasonable or enforceable.
16. I note that the appellant owns 3-7 Billet Lane and so could potentially make some improvements to the rear elevations of these buildings and how they operate, such as in terms of bin storage. However, this would not be sufficient to overcome the overall harm to the outlook that I have identified above.
17. The operation of the service area, including as a car park, and a refuse storage area for the shop units on Billet Lane / High Street, means that some noise and disturbance for the future occupiers of the proposed development would be likely. Whilst this undoubtedly affects the existing flat residents, the position and layout of the proposed dwellings mean that it would have a greater impact on future occupiers.
18. To the west of the site is a surface car park, serving a supermarket on High Street, with a commercial garage business, Colwood Motors, operating from the land to the north, which is accessed from Fairkytes Avenue. I note the hours of operation of these businesses, and that there are dwellings on Fairkytes Avenue.
19. However, the proposed dwellings would be closer to both the garage buildings and the car park than the existing dwellings. No acoustic assessment of the effect of any of the nearby uses on the proposed dwellings, or of the effectiveness of any of the proposed sound attenuation measures has been provided. Consequently, I am not satisfied that the proposed development would not be adversely affected by nearby uses.
20. For these reasons, the proposed development would cause unacceptable harm to the living conditions of future occupiers, with particular regard to outlook, noise and disturbance. It would, therefore, conflict with Policy DC61 (urban design) of the Havering Core Strategy and Development Control Policies Development Plan Document 2008 (HCSDCPDPD), Policy 3.5 (quality and design of housing developments) of the London Plan 2016⁴ (LP) and guidance contained in the National Planning Policy Framework 2019 (the Framework).

⁴ The Spatial Development Strategy for London consolidated with alterations since 2011.

Vehicular and pedestrian access

21. As set out above, the appeal site is not directly connected to the public highway, and the status of the service area land, which connects the site to the highway, is not specified. The service area is largely unsurfaced and uneven, with rubbish and standing water present in places. Neither of the two highway access points are well-lit at present, and parts of both are not overlooked and so do not benefit from passive surveillance in terms of security.
22. Furthermore, the service area does not contain defined parking and refuse storage areas, there are no defined pedestrian or vehicular routes from the appeal site to either Billet Lane or High Street, and no defined vehicular turning areas.
23. The appellant's statement acknowledges that the existing arrangements would need to be improved as part of the development and proposes to undertake works to the service area land between the appeal site and the public highway, including by the two access points. The proposed works would include 'the installation of gates, lighting and resurfacing to enhance safety'. However, none of the submitted drawings show defined vehicular or pedestrian routes from the appeal site to either Billet Lane or High Street, and do not identify car parking areas or bin storage areas for all of the commercial units.
24. The existing access arrangements are used by cars parking in the service area and refuse vehicles serving the shops on Billet Lane and High Street, as well as by the residents of the flats above these shops, without reported difficulty. I also note that the London Fire Brigade has not objected to the proposal.
25. However, the proposed development would change the character and function of the appeal site to family housing and would be likely to extend both vehicular and pedestrian access over the service area during the day and into the evening. I am not content that the proposed access improvements would allow for safe, comfortable and unobstructed pedestrian and vehicular access from the appeal site to the highway.
26. Even if I were to accept that the proposed access arrangements were or could be made satisfactory, there is no evidence that the appellant has any control over the service area, and so would be unable to undertake any such improvement works, as set out above. The ownership of the service area is unclear. Whilst the details of some of the proposed access improvement works could, potentially, be controlled by way of a condition, in this case, I am not satisfied that such a condition would be reasonable or enforceable.
27. For these reasons the proposed development would not provide suitable vehicular or pedestrian access arrangements. It would, therefore, conflict with Policies DC36 (servicing), DC61 and DC63 (delivering safer places) of the HCSDCPDPD and with paragraph 127 f) of the Framework.

Housing Land Supply and Housing Delivery

28. The main parties are in dispute as to whether the Council can demonstrate that it has a 5-year supply of deliverable housing sites, with an appropriate buffer, which at the present time is 20%⁵.

⁵ Paragraph 73 c) of the Framework.

29. However, the 2019 HDT results show that the Council has substantially under-delivered against its housing requirement over the latest 3-year period⁶. Consequently, the presumption in favour of sustainable development contained in the Framework is engaged⁷.
30. The delivery of three family-sized homes in an area that has experienced a substantial under-delivery of homes in recent years, carries some weight.
31. The proposed development is supported by Policies CP1 (housing supply), CP2 (sustainable communities) and DC2 (housing mix and density) of the HCSDCPDPD. These policies are generally consistent with the Framework, and I therefore give this support weight.
32. However, the proposal would also conflict with Policies DC34 (walking), DC35 (Cycling), DC36, DC61 and DC63 of the HCSDCPDPD and Policy 3.5 of the LP. These policies are generally consistent with the Framework, and I therefore give these conflicts weight. On balance, the proposed development would conflict with the development plan as a whole.
33. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance⁸.
34. The proposed development would be supported by parts of the Framework. In particular, policies to increase the supply of housing and support economic growth.
35. However, the harm to the living conditions of future occupiers and the unsuitable pedestrian and vehicular access arrangements means that there would also be conflict with Framework policies that support the effective use of land, promote healthy and safe communities and sustainable transport, and, achieve well-designed places.
36. 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.
37. 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

38. I note the two letters submitted in support of the proposed development, and which refer to the existing unsatisfactory situation in the service area. They do not cause me to reach a different conclusion with regard to the harm that would be caused by the proposed development, as set out above.

⁶ 2016-17, 2017-18, and, 2018-19

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

⁸ Footnote 6 of Paragraph 11 d i) the Framework provides a complete and exhaustive list of such policies.

Conclusion

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

Andrew Parkin

INSPECTOR