
Appeal Decision

Site visit made on 12 February 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2020

Appeal Ref: APP/B5480/W/19/3240149
56 Station Lane, Hornchurch RM12 6NB

- 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 Noor Miah against the decision of the Council of the London Borough of Havering.
 - The application Ref P0885.19, dated 23 April 2019, was refused by notice dated 13 August 2019.
 - The development proposed is described as 'retrospective planning permission for conversion of single dwelling into two self contained studio apartments'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form indicates that the development applied for was completed in January 2015 and I saw two self-contained flats on the site at my visit. I have therefore determined the appeal on the basis that the development has already occurred.
3. Within their evidence, the Council refer to the emerging Havering Local Plan 2016-31 (HLP). The HLP is yet to be adopted and is therefore subject to change. Consequently, the emerging plan carries limited weight in my decision.
4. On 13 February 2020, the Government published the results of the 2019 Housing Delivery Test (HDT). The results indicate that, when applying footnote 7 of the National Planning Policy Framework (the Framework), the presumption in favour of sustainable development contained within paragraph 11(d) of the Framework would be relevant to the proposed development. The main parties were provided an opportunity to comment on this matter.

Main Issue

5. The main issue in this appeal is whether or not the proposal provides acceptable living conditions for occupiers of the development with particular regard to outlook and the provision of internal space.

Reasons

6. The appeal site is located within a parade of mixed uses fronting Station Lane and is in use as a restaurant at ground floor level. The main parties indicate

that planning permission was granted in 2015¹ for a two-bedroom flat at first floor level above the restaurant, accessed via an external staircase to the rear of the building. The appeal proposes the conversion of this two-bedroom flat to 2 studio flats. Flat A is located towards the rear of the building furthest from Station Lane, while Flat B is located towards the front part of the building.

7. Policy 3.5 of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 (LP) requires high quality housing developments, and identifies that new homes should have adequately sized rooms and convenient and efficient room layouts which are functional and fit for purpose.
8. LP Policy 3.5 also includes reference to minimum standards for the internal area of dwellings which accord with the Government's Nationally Described Space Standard (NDSS). These indicate that the internal floor area of a one-bedroom, one-person flat should be at least 37-39sqm. I have found nothing within the evidence before me to suggest that application of the standards within LP Policy 3.5 or the NDSS depends on the manner in which a dwelling is created. While I note that the appeal relates to subdivision of an existing dwelling, I therefore have no grounds to find that the floorspace requirement within LP Policy 3.5 should not apply.
9. From the limited information before me, I am unable to draw any firm conclusions on the actual floorspace measurements of the development and therefore whether the standards within LP Policy 3.5 are met. While the Council indicate floor areas of around 24sqm and 29sqm for the flats, the appellant has stated that they each have a floor area of more than 39sqm.
10. Irrespective of the precise quantum of floorspace, it was clear from my visit that the available space within the flats is relatively limited and together with their narrow shape this restricts potential for flexibility over the internal arrangement of space. Moreover, there is a sloping section of wall within Flat A further constrains the utility of part of this flat. These factors lend the flats a relatively constricted feel.
11. Flat A benefits from a window to the rear of the building offering outlook over the car park beyond the access to the rear of the site as well as 2 rooflights. In my view, these provide an acceptable amount of light and outlook for occupiers of this flat.
12. Flat B has 2 windows within the main living space and a third serving a shower room, but these face onto a small enclosed terrace area between the appeal site and the adjacent building which is set in close proximity. As a result, the outlook available from these windows is very limited. I also saw that the adjacent building includes windows facing the appeal site and Flat B and so potential outlook is likely to be further reduced by the use of blinds or curtains to these windows in order to provide privacy. In my view, available outlook for this flat is therefore so restricted as to be detrimental to the living conditions of occupiers. While the appellant has referred to windows at the front of the building, from my visit it seems that these do not serve Flat B.
13. I recognise that planning permission was given for residential use of the appeal site at first floor level. However, this related to use as one two-bedroom flat

¹ Application reference P0527.15

where occupiers would benefit from opportunities for outlook to the rear of the site in addition to the more constrained windows onto the terrace to the side of the building, as well as a larger overall size of accommodation. Accordingly, it is not directly comparable to the circumstances of the proposed development.

14. Considered collectively, I find that while Flat A is not so constrained by outlook, the size and shape of Flat B combined with the poor outlook available results in unacceptable living conditions for occupiers of this flat. The development therefore conflicts with LP Policy 3.5 and Policies DC4 and DC61 of the Havering Core Strategy and Development Control Policies 2008 (CSDCP) which all aim to provide high quality housing development offering a good standard of accommodation. There would also be conflict with advice within the Council's Residential Design Supplementary Planning Document 2010.

Other Matters

15. The appellant has provided information on the past payment of Council Tax for 2 flats on the site. However, this is not a factor which affects my consideration of the planning merits of the appeal before me.
16. I have considered examples of other developments brought to my attention by the appellant, namely development of flats at 46 and 52 Station Lane. However, I do not have full details of the circumstances that led to these proposals being accepted, and so cannot be sure that they are comparable to the appeal proposal, including in respect of scale, location, use and development plan policy. I also note that the Council have advised that the development at 52 Station Lane was assessed under the prior approval procedure pursuant to Class J of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) England Order (as amended) where the matters that can be considered are more limited. I have in any case determined the appeal on its own merits.

Planning Balance

17. The proposal conflicts with LP Policy 3.5 and Policies DC4 and DC61 of the CSDCP. Insofar as they are relevant to the appeal proposal, these policies are broadly consistent with the expectations of the Framework which seeks at paragraph 127 a good standard of amenity for all existing and future occupants of land and buildings as a key aspect of sustainable development. The weight that I afford the conflict with these policies is therefore reasonably significant.
18. The 2019 HDT results indicate that delivery of housing in the borough was substantially below the housing requirement over the previous 3 years. The presumption in favour of sustainable development outlined at paragraph 11(d) of the Framework is therefore engaged.
19. This states that where the policies which are most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
20. In terms of benefits, I note that the Frameworks seek to significantly boost the supply of housing to meet needs. The proposal would provide an additional

dwelling and I note the past shortfall in delivery indicated by the 2019 HDT results. It would offer accommodation suitable for smaller households, and would also make effective use of this previously developed site above existing commercial premises which is located close to town centre transport links and local facilities and amenities. These are facets which are strongly supported by the Framework. The extent of these benefits is tempered though by the small amount of development.

21. However, I have found that the proposal would result in unacceptable harm to the living conditions of occupiers of the development. The proposal therefore conflicts with the policies of the Framework as a whole and with particular regard to seeking a high standard of amenity for existing and future users as a key aspect of sustainable development.
22. In this context, I find that the clear harm that would arise from the proposal in respect of the living conditions of occupiers of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent sustainable development, and the conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

23. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR