The Planning Inspectorate

Appeal Decision

Site visit made on 18 February 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2020

Appeal Ref: APP/B5480/W/19/3242499
Land to the rear: 12-26 Harold Court Road, Romford, London RM3 0YU

- 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 Harold Court Limited against the decision of the Council of the London Borough of Havering.
- The application Ref P1328.19, dated 21 August 2019, was refused by notice dated 8 November 2019.
- The development proposed is the demolition of redundant garage buildings and the erection of 4no. dwellings with associated access, parking and landscaping.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Reference has been made by the Council to the emerging Havering Local Plan. However, it is not clear when the exact date of adoption will be or if there are unresolved objections. Therefore, I have only given this limited weight in the determination of this appeal.

Main Issues

3. The main issues are the effect of the proposed development on:

   - the living conditions of the occupiers of the neighbouring properties, with particular reference to outlook and privacy; and
   - the living conditions of the future occupiers, with particular reference to outdoor space and sunlight.

Reasons

Living conditions of the occupiers of the neighbouring properties

4. The appeal site is located off Harold Court Road and sits behind the existing properties Nos 10-26 Harold Court Road and comprises of 23 former residential garages. The site is accessed from an existing vehicular access located between Nos 26 and 28 Harold Court Road. From the access the site slopes up towards the shared boundary with No 8 Harold Court Road (No 8). The site is bordered by residential properties on all sides, with the western boundary shared with the gardens of properties on Thurso Close.

5. The proposed development would demolish the existing garages and erect 4 3-bedroom dwellings. The proposed dwellings would be two pairs of one and a half storey semi-detached properties, positioned centrally within the site and orientated in a northwest to southeast direction.

6. The Council has stated that the proposed development would result in an unneighbourly development and would appear dominant, visually intrusive and overbearing to the occupiers of the neighbouring properties. Whilst I acknowledge that the proposal would be higher than the existing garages, the proposed dwellings would be modest in scale and would sit lower in height than the surrounding properties. In addition, the layout of the proposal would mean that gaps would exist between the pairs of dwellings, which would still allow views through the site.

7. In terms of privacy, Plots 1 and 2 of the proposal would be located towards the end of the garden of No 8. The first floor windows of these plots would only have separation distances of approximately 7.8 metres and 5.6 metres to the boundary of No 8. I note that the appellant has sought to design the proposed dwellings to not result in any window to window overlooking. However, the proposal would still introduce overlooking from an area that the occupiers of No 8 and the nearby properties, would not have previously experienced. Furthermore, despite the orientation of the windows of Plot 1 and 2 and their location towards the end of the nearby gardens, views of the gardens and nearby properties would still be possible, particularly at No 8. I note there is existing vegetation which would help to screen some of the views, nevertheless, landscape cannot be considered a permanent feature.

8. Consequently, while I have found that the proposal would not be harmful in terms of outlook, it would nevertheless, harmfully change the living conditions of the occupiers of the neighbouring properties in terms of privacy. Therefore, it would be contrary to Policy DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (CSDCP) (2008). This Policy, amongst other things, requires development to not result in an unacceptable loss of privacy and to respect the surrounding physical context.

Living conditions of the future occupiers

9. The London Borough of Havering Design for Living Residential Design Supplementary Planning Document (DLRDSPD) (2010) provides guidance for the provision of outdoor spaces. It recommends that dwellings should have access to suitable private and/or communal amenity space, which is not overlooked and provides adequate space for day to day uses. It also advises that consideration should be given to privacy, outlook, sunlight, trees and planting, materials (including paving), lighting and boundary treatment. However, it does not provide fixed standards in terms of the provision of private amenity space.

10. In terms of the outdoor space for Plot 3, the Council has stated that it would be of poor quality given its small size and irregular shape. Whilst the outdoor space for Plot 3 would not be uniform in shape, it would be south facing and would have adequate space for day to day uses, such as a table and chairs for outdoor dining, clothes drying, relaxation, gardening and children's play. In addition, there would also be adequate space for a cycle store within the garden area.

11. In terms of Plots 1 and 2, the size of the gardens are shown on the submitted plans as being 64m² and 89m² in size. I note that the gardens are north facing and the proposed retention of tree group G2, would cause some overshadowing in the evenings. However, the garden would still have some sunlight in the morning and in the early afternoon. In addition, the future occupiers would have adequate outdoor space for day to day uses as listed above and cycle storage.

12. The appellant has submitted a planning application[1] that the Council recently granted permission for a similar development, where the scale of the proposed outdoor space was comparable to this proposal and deemed acceptable. Whilst, not immediately adjacent to the appeal site, this example, in regard to the provision of outdoor space, is comparable to the one that is before me. I also note that the garden sizes in the local area are not all the same shape or size, with some being smaller than others.

13. Consequently, I find that the proposed development would not harm the living conditions of the future occupiers, with particular reference to outdoor space and sunlight. Therefore, it would accord with Policy DC61 of the CSDCP and the guidance within the DLRDSPD. This policy and guidance requires new development to respond to patterns of development and provide useable outdoor space.

Other Matters

14. The appellant has highlighted that the proposal had a lack of objections from statutory consultees. However, this does not necessarily mean that harm does not exist, and I have made my own judgment on the evidence and the proposal before me.

Planning balance and conclusion

15. In the Council's officer report, it states that it cannot currently demonstrate a 5 year housing land supply as required by paragraph 73 of the National Planning Policy Framework (the Framework), with its land supply currently being 4.91 years. As part of the appeal process, the appellant has submitted the recent publication of the Housing Delivery Test: 2019 Measurement (MHCLG 2020) and states that the Council has a delivery percentage of 33%, and as a result, the presumption in favour of sustainable development should be applied.

16. The relevant policies of the development plan are considered to be out-of-date. As a consequence, the presumption in favour of sustainable development as outlined in Paragraph 11 of the Framework is engaged. This indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

17. I acknowledge that the proposed development would provide additional houses which could be for families, which would be a modest benefit. The proposal would provide a limited amount of short-term employment through the construction of the development. The 4 new houses would make a modest contribution to the supply of housing and towards helping to address the Council's shortfall. I also note that the houses would be sustainably located on a brownfield site and built to high quality and modern, sustainable standards.

[1] Planning application reference: P0942.18

However, the proposal is only for 4 dwellings, therefore, the nature and scale of these benefits would be limited. In terms of sustainable transport, the site has a Public Transport Access Level (PTAL) rating of 2, and is well served by public transport facilities, with bus routes providing connections to London Overground, TFL Rail and National Rail Services. The site is also situated in close proximity to a range of services and facilities and centres for employment and shopping.

18. Despite the benefits of the proposal, it would result in harm to the living conditions of the occupiers of the neighbouring properties. Although, I have found no harm to arise in terms of provision of outdoor space, outlook and sunlight, the proposal would not accord with the development plan when considered as a whole and would be contrary to the aims of the Framework to protect the living conditions of neighbouring occupiers.

19. Taking into account all matters, I conclude that the adverse impact of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development.

20. For the reasons set out above, I conclude that the appeal is dismissed.

D Peppitt

INSPECTOR