



Appeal Decision

Site visit made on 8 September 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/B5480/W/20/3253138

Land to rear of Nos 230-236 Hornchurch Road, Hornchurch, Essex RM11 1QB

- 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 Mr B Hoffman (Fastgrand) against the decision of the Council of the London Borough of Havering.
 - The application Ref P1076.19, dated 27 June 2019, was refused by notice dated 13 January 2020.
 - The development proposed is redevelopment of land to the rear of Nos 230-236 Hornchurch Road to provide two semi detached houses (2 x 3 bed) together with associated works including new vehicle parking provision, hard/soft landscaping, amenity space, secure refuse and cycling storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Appellant has submitted additional plans as part of the appeal, comprising a revised layout plan (Ref 19 1290 300D) and I consider that these amendments do not amount to considerable changes to the original planning application as submitted to the Council. However, Annex M of the Planning Appeals Procedural Guide – England advises that the appeal process should not be used to evolve a scheme. It is important that what I consider is essentially what was considered by the local planning authority and on what interested parties' views were sought. If I were to determine the appeal on the basis of including the additional plans it is possible that the interests of these parties could be prejudiced. Therefore, for the avoidance of doubt, I have determined the appeal scheme on the basis of the plans which were before the Council when it made its original decision.
3. In their evidence the appellant has referred to the policies of the emerging Havering Submission Draft Local Plan 2018. However, the Council's appeal statement advises that whilst this plan has been examined it has not yet been found sound with the main modifications currently undergoing public consultation. Consequently, I have afforded these emerging draft policies limited weight.
4. In their evidence the appellant has also referred to the policies of the emerging draft London Plan. However, this plan has not yet been published and as a result I have also afforded these emerging draft policies limited weight.

Main Issues

5. The main issues are:

- the effect of the proposed development on the living conditions of future occupiers having particular regard to the provision of useable amenity space; and
- the effect of the proposed development on the living conditions of neighbouring occupiers having particular regard to matters of outlook.

Reasons

Living conditions of future occupiers

6. The proposal relates to the construction of two semi-detached two-storey dwellings with three bedrooms on a site which is used as a car park and storage area. The surrounding area is predominately residential with the majority of properties on Purbeck Road comprising two-storey terraced dwellings with front driveways and large back gardens.
7. The proposed dwellings would have hardstanding and driveways to the front and private amenity space to the rear. The proposed rear boundary treatment would be closed boarded timber fencing with an approximate height of 1.8 metres. The existing car park would be behind the proposed rear amenity space and would continue to be used by residents of the adjacent apartment block to the south of the appeal site. It would also continue to be accessed via a driveway running past the side of the proposed dwellings from Purbeck Road. Each of the proposed dwellings would also have large glazed panels/doors on the ground floor of their rear elevations and two first floor rear windows serving a bedroom and bathroom.
8. The adopted Residential Design Supplementary Planning Document 2010 (SPD) requires that the design of proposed external amenity space should be of a high quality taking into consideration matters such as outlook, sunlight, trees, planting, materials, lighting and boundary treatments. It also states that the fundamental design considerations for amenity space should be its quality and usability¹.
9. The proposed rear amenity space would measure approximately 20 square metres which would be large enough to accommodate garden furniture such as a table and chairs plus a small area of planting as shown by image 3 of the appellant's statement² and for it also to be used for other day-to-day activities such as clothes drying, relaxation and gardening.
10. However, based on this image, if a family were to have a meal outside using the same layout, furniture and planting, the only space available for a child to play would be two narrow strips of lawn either side of the glazing panel/door. Therefore, based on the evidence before me, I consider that the size of the proposed amenity space would be insufficient to provide adequate space for safe children's play in addition to other day-to-day activities, something which the SPD also requires at section 10.1. Consequently, I find that the proposed amenity space would neither be fully functional nor useable.
11. Furthermore, while I acknowledge that the proposal would have large glazing panels/doors on the ground floor, given the amenity spaces' boundary treatment, relatively small areas and shallow depths I consider that it would be a cramped form of development with the feel and appearance of confined and enclosed spaces nonetheless particularly when compared with other rear gardens on Purbeck Road.

¹ See section 10.1

² See page 23

12. I also acknowledge that the proposed dwellings would also have first floor windows on the front and rear elevations meaning that there would be sufficient outlook for the occupiers of the bedrooms. However, I consider that the outlook provided by these windows would not reduce the sense of enclosure a future occupier would feel whilst in the living room or indeed outside in the amenity spaces themselves.
13. As a result, I conclude that the proposal would materially harm the living conditions of future occupiers having particular regard to the provision of useable amenity space. It would therefore conflict with Policy DC61 of the adopted Havering Core Strategy and Development Control Policies Development Plan Document 2008 (CS), the adopted Residential Design Supplementary Planning Document 2010 (SPD) and Policy 7.4 of the adopted London Plan The Spatial Development Strategy for London Consolidated with Alterations since 2011 (2016) (The London Plan) which aim to ensure that development complements or improves the amenity of an area. It would also conflict with paragraph 127 f) of the Framework which aims to create places with a high standard of amenity for existing and future users.

Living conditions of neighbouring occupiers

14. The side elevation of the proposal would be located approximately 5 metres from the rear elevation of the adjacent block of apartments situated to the south of the appeal site. The submitted plans show that given the sloping topography of the site the proposal's height is greater than that of the part of the adjacent block of apartments comprising flats nos. 1 and 3. While on my site visit I observed that there were three first floor windows on the rear elevation serving flat no. 3 with one ground floor window and patio door serving flat no. 1 reflecting recent internal alterations.
15. Whilst what I observed on my site visit represents but a snapshot in time, I consider that the proposal's height combined with the relatively short distance between it and the adjacent apartments means that it would cause a loss of outlook from these windows given that they would primarily only have a view of a bare brick façade. Furthermore, this loss of outlook would be particularly acute for the window serving the bedroom and the patio door serving the kitchen/living area of the ground floor flat given that views from these vantage points are already partially obscured by the existing boundary wall and railings.
16. Moreover, given that the private amenity space serving flat no. 1 would be located closer to the proposal than the ground floor window and patio door, I also consider that there would be an unacceptable loss of outlook for the users of this space, even though the existing refuse and cycle storage compounds would be relocated so that they would no longer enclose it.
17. I acknowledge the appellant's points that flat no. 1 also has ground floor windows on its east and west elevations and that the north facing window serving the bedroom would be set back approximately 7 metres from the proposal. However, this would not be sufficient to overcome the harm I have identified in relation to the loss of outlook from the other north facing window and patio door.
18. I also acknowledge that the loss of outlook from one of the first floor windows serving flat no. 3 would be lessened by the fact that the proposal would be set back slightly leaving it a relatively unobstructed view, and that there would also be other windows serving the flat on its eastern and western elevations. However, given their locations the level of outlook from these windows would not be sufficient to overcome the unacceptable loss to the outlook from the other two first floor rear windows.

19. The proposal would also be located very close to the shared boundary with no. 1A Purbeck Road which has several windows on its southern side elevation with three of them serving habitable rooms, a first-floor bedroom, a ground floor kitchen and ground floor living room. While on my site visit, I observed the outlook from these windows from within the property, and whilst this represents a snapshot in time, given what I observed I consider that the height and massing of the proposal would lead to an unacceptable loss of outlook from these windows. Moreover, this loss of outlook would be particularly acute for the ground floor windows as the view from them is already partially obscured by the existing side boundary wall.
20. While I acknowledge that these habitable rooms also have outlook from other windows on the front and rear elevations of 1A Purbeck Road, I consider that this would not be sufficient to overcome the potential harm I have identified.
21. I therefore conclude that the proposed development would materially harm the living conditions of neighbouring occupiers having particular regard to matters of outlook. Accordingly, it would conflict with Policy DC61 of the CS which aims to compliment or improve the amenity of an area, amongst other considerations. It would also conflict with paragraph 127 f) of the Framework which aims to create places with a high standard of amenity for existing and future users.

Other considerations

22. The proposed development would provide an additional two dwellings and a social benefit. There would also be some economic investment from both their construction and subsequent occupation. These benefits are tempered by the relatively small scale of the proposed development, but nevertheless, carry modest weight in favour of the appeal scheme.

Planning Balance

23. Based on the evidence before me the Council has not delivered enough housing in the area to meet the requirements of the Housing Delivery Test. As such, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing five additional dwellings to assist the Council in addressing its under delivery as set out in Paragraph 11 of the Framework.
24. In relation to the adverse impacts of the proposal, these are material harm to the living conditions of future occupiers and neighbouring occupiers in conflict with Policy DC61 of the CS, the SPD and Policy 7.4 of the London Plan. It would also conflict with paragraph 127 of the Framework.
25. With regards to the possible benefits of the proposal, it would potentially provide five dwellings and modest social and economic benefits. However, given the conflict with the development plan and those policies of the Framework identified above, I find that the proposal consequently cannot be considered sustainable development in accordance with paragraph 11 of the Framework.
26. Therefore, within the context of paragraph 11 of the Framework, given the substantial harm I have identified, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole, including its presumption in favour of sustainable development.

Other Matters

27. I acknowledge that the proposal has lesser scale, height and massing than the previously refused proposal (Ref APP/B5480/W/19/3227910) and that it would also have a slightly greater separation distance from the adjacent block of apartments to the south of the appeal site, particularly flats nos. 1 and 3. However, for the reasons set out above, this is not of sufficient weight to outweigh the harm I have identified.
28. In support of the appeal proposal the Appellant has cited a similar proposal that was granted planning permission (Ref 17/AP/4193) after initially being dismissed at appeal stage (Ref APP/A5840/W/16/3158547). Another appeal decision (Ref APP/G180/W/18/3215729) has also been cited in support of the proposal. However, I do not have all the details of these cases before me or the circumstances which led to those decisions being taken.
29. In addition, given that the first scheme (Ref 17/AP/4193) was for a one-bedroomed basement flat and that the second scheme (Ref APP/G180/W/18/3215729) was for the creation of four apartments on three storeys with future occupiers having wider views of the sky and mature residential gardens, I consider that the circumstances applicable to these schemes are not exactly the same as those presented in this case, which I have determined on its own merits.

Conclusion

30. The proposal would not accord with the development plan and the Framework when read as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within them. Therefore, for the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR