



Appeal Decision

Site Visit made on 19 January 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2021

Appeal Ref: APP/B5480/W/20/3261924

115 Victoria Road, ROMFORD, RM1 2LX

- 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 Kara Capital Ltd. against the decision of the Council of the London Borough of Havering.
 - The application Ref P0986.20, dated 13 July 2020, was refused by notice dated 25 September 2020.
 - The development proposed is demolition of storage building and dwelling unit and erection of detached two storey building to accommodate a one-bed flat and a 7 room HMO.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Kara Capital Ltd against the Council of the London Borough of Havering. This application is the subject of a separate Decision.

Preliminary Matters

3. On the 19th January 2021, the Government published the 2020 Housing Delivery Test (HDT) results. The HDT results show that the London Borough of Havering has delivered 36% of its housing requirement over the latest 3-year period. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework (the Framework) would be engaged. As this was also the outcome of the 2019 HDT results I have not sought further views from the parties on this matter.

Main Issues

4. The main issues in this appeal are the effect of the development on:
 - the living conditions of future occupiers, with particular reference to amenity space, outlook, privacy and noise and disturbance;
 - the living conditions of existing occupiers, with regard to privacy and noise and disturbance;
 - whether the development would provide a well-designed place having regard to crime and safety; and
 - whether the proposal would unacceptably prevent the development of adjoining land.

Reasons

Future Occupiers - amenity space

5. The communal amenity space for the proposed one-bed flat and the House in Multiple Occupancy (HMO) would be provided to the rear of the new two storey building. The area would be approximately 30 sqm and rectangular in shape. It would therefore be of a useable shape and be of an adequate size that would enable space for a small sitting out area. An entirely separate area would be provided for cycle and bin storage, enabling the space to the rear to function solely as amenity space. The proposed communal kitchen/lounge/diner would have an outlook over the amenity space allowing the outside space to integrate with the occupation of the wider HMO. Adequate access into the amenity space for the occupants of the HMO would be possible through an external door from this room. The amenity space would be adjacent to the existing railway embankment which contains several trees. This would result in some shading to this area. However, the space would remain attractive and inviting, despite this, because of its overall size and position in relation to the living accommodation. Therefore, the area would provide a functional space appropriate for future occupiers of the HMO.
6. The amenity space would also be shared with the proposed one-bed flat. In order for the occupant of the flat to access the space they would need to come out of their front door, walk around the building and pass through the entrance door to the HMO. They would then have to go through the communal hallway and then exit along the side of the HMO to access the amenity space. This would be a contrived and convoluted route that would seriously diminish the likelihood that future occupants of the flat would use the amenity space. The lack of direct and convenient access to outside amenity space would harm the living conditions of the occupants of the proposed flat. This would fail to accord with the Residential Design Supplementary Planning Document (SPD) which states that communal amenity space should be easily accessible and legible to all occupants.
7. Whilst the current occupiers of 115C have limited access to private amenity space, this does not overcome my concerns regarding the provision of access to adequate amenity space for future occupiers of the proposed development. Due to its size, it is unlikely that the proposed one-bed flat would be used as family accommodation. This slightly reduces but does not extinguish the harm described above.
8. In accordance with the SPD, I have taken into account that the site is within close proximity to the nearby public open spaces of the Rapheals and Hylands Park. Whilst these are relatively close to the site, using them would be significantly less convenient than using an appropriate amenity space at the appeal site. Therefore, the lack of easily accessible amenity space for the occupier of the flat, in combination with the lack of private space is not, in this instance, adequately mitigated by the proximity to public open space.
9. In conclusion, the development fails to provide acceptable living conditions for future occupiers of the one-bed flat, with particular reference to amenity space. It would therefore be contrary, in this regard, to Policy DC61 of the Havering Core Strategy and Development Control Policies DPD 2008 (DPD) which requires development to meet the needs of all people of all ages and provides a

link to the SPD. This document sets out that every home should have access to suitable private and/or communal open space.

Future Occupiers – Outlook/Privacy

10. The proposed one bed flat would be located on the boundary of the site, adjacent to the existing car park serving Midland Court. The site is currently enclosed by a fence to separate it from the car park and it is not evident from the plans whether this fence would be retained. If the fence were to be retained, it would severely limit the single aspect outlook from the flat. Given the very close proximity of the boundary treatment it would represent a dominant and oppressive feature which would have a significantly adverse impact on the outlook from the flat to the detriment of the living conditions of future occupants.
11. Without the provision of a fence however, the only windows of the one-bed flat would be positioned on the boundary with insufficient set back provided to enable a sense of privacy or security to those ground floor rooms. Therefore, in this scenario the lack of privacy afforded to the ground floor windows of the proposed flat would be both significant and unacceptable.
12. Access to the communal open space could be via an external walkway which would pass alongside the window of Room 1. However, as the amenity space can also be accessed via the main living space, this would reduce the number of potential movements which would take place along the external walkway. Thus, the number of movements generated by those accessing the amenity space would be modest and would mostly be from those living in the HMO. As such, this configuration would not lead to an unacceptable loss of privacy to the occupier of Room 1.
13. Accordingly, I find that the development would result in significant harm to the living conditions of future occupiers of the one-bed flat in terms of privacy and outlook and in this regard it would conflict with Policy DC61 which requires new properties to have appropriate privacy and not be overlooked.

Future Occupiers – Noise and disturbance

14. Access to the proposed HMO would be along a walkway which would run along the front and past the entrance door of the proposed one-bed flat, and then along the length of its side boundary, which does not benefit from any openings. There is nothing to suggest that the occupancy of the building would result in any overcrowding, which can otherwise lead to an unreasonable level of noise and disturbance. In this context the comings and goings from the occupants accessing the 7-room HMO would not result in any unreasonable noise and disturbance to the occupants of the proposed one-bed flat.
15. I note that the previous Inspector concluded that a proposed 9-room HMO would cause unacceptable noise and disturbance to the existing occupiers of 115C Victoria Road (115C). However, the decision notice indicates that the occupiers of the 9-room HMO would have had to walk past the private garden area of 115C and that, in combination with the scale and position of the proposed HMO, would cause noise and disturbance to the existing occupier.

However, the scheme before me is different in that the one-bed flat would form part of the HMO development and the occupiers of the proposed 7-room HMO would not need to walk past any windows serving the proposed flat.

16. I therefore conclude that the appeal scheme would not harm the living conditions of the occupants of future occupiers by virtue of increased noise and disturbance. The proposal would, in this regard, comply with policy DC61 of the DPD which restricts development which has unreasonable adverse effects on the environment by reason of noise and disturbance.

Existing Occupiers - Noise and disturbance

17. The appeal property is located in a mixed residential and commercial street, with a number of buildings in close proximity to one another. The ground floor windows of the existing residential properties within 115 Victoria Road are located along the existing access road which appears to be used by both pedestrian and vehicular traffic with a car parked adjacent to the ground floor windows at the time of my visit.
18. In this context the comings and goings from the occupants accessing the appeal property would not result in any undue increase in noise and disturbance, nor would it lead to any loss of privacy to the existing ground floor windows greater than that which currently exists from the use of the existing access route.
19. I therefore conclude that the appeal scheme would not harm the living conditions of the occupants of nearby properties, by virtue of increased noise and disturbance, or loss of privacy. Therefore, in this regard the proposal would comply with policy DC61 of the DPD which requires development to minimise adverse amenity implications.

Crime and Safety

20. The layout of the proposed development, with particular regard to the access to the proposed HMO, includes a narrow walkway without any natural surveillance at ground floor. However, there is one window at first floor which would enable adequate natural surveillance over the walkway. There would also be external lighting, triggered by motion sensors and CCTV cameras. Therefore, the design of the proposal, means that it would create a place without an unreasonable risk of crime. In addition, I note that the Designing Out Crime Officer has raised no objection to the proposed development, which adds weight to my findings.
21. Consequently, the development would create a safe place and would therefore accord with policies DC61 and DC63 of the DPD which seeks to deliver safer places and requires development to demonstrate how crime prevention measures have been considered in the design of the proposed development.
22. The development would also be in accordance with Policy 7.3 of the London Plan which states that development should reduce the opportunity for criminal behaviour and contribute to a sense of security. The emerging London Plan is not materially different to the adopted policy and does not alter my findings on this main issue.

Whether the proposal would unacceptably prevent the development of adjoining land

23. The proposal would include both ground and first floor windows in the side elevation of the building to serve the one-bed flat and HMO. These windows would provide views across the adjoining land and would be located on the boundary of the appeal site.
24. The land immediately adjacent to the appeal site is in use as a car park and thus there would be no harmful impact on privacy from the close proximity of the windows to the boundary of the appeal site. Nevertheless, the Council are concerned that the use of the windows at second floor level would compromise any future development of the land adjacent to the appeal site due to a potentially unacceptable level of overlooking.
25. Any development that may come forward on the adjoining site would need to take account of the windows in the appeal site as well as the other windows within the neighbouring properties which already overlook the adjoining land, in what is a dense urban area. There is no substantive evidence before me to indicate that this is not possible, what form it would take or that the presence of these windows would 'sterilise' the potential to redevelop large parts of the adjoining site.
26. Furthermore, whilst the Council's ambition of seeking to prevent development that could frustrate a larger redevelopment of an adjoining site could be a legitimate planning aim, I am not satisfied in this instance it can be given more than limited weight. In my view, for this aim to be given overriding weight in an assessment there needs to be a high probability that a comprehensive redevelopment would come forward with clear public benefits. To otherwise resist development would unreasonably preclude opportunities for smaller scale developments, which could bring their own benefits.
27. I have seen no evidence that any party is currently seeking a comprehensive redevelopment of the adjoining site or that this is likely to occur in the future. I have not been presented with any evidence to suggest there is an extant planning permission on the adjoining site or that there is a planning application currently under consideration or about to be submitted. Moreover, I have not been directed to any land allocation or design brief for the area/site.
28. As such, there is little substantive evidence to suggest the development would frustrate a comprehensive redevelopment of a larger site. Consequently, the creation of additional dwellings in a sustainable urban location can be considered an efficient use of land. I therefore conclude that the proposed development would be an efficient use of land that would not compromise a comprehensive development of a larger site. The proposal therefore adheres, in this regard, to the aims of Policy DC61 which seeks to encourage good urban design.

Other Matters

Planning Balance

29. I have found that the scheme would harm the living conditions of the occupiers of the proposed ground floor flat, with reference to access to amenity space and privacy and outlook and this would conflict with Policy DC61. This policy is consistent with the National Planning Policy Framework (the Framework) and can be afforded full weight. The conflict is therefore a matter of great significance.

30. The 2020 HDT results show that the Council has underdelivered against its housing requirement over the latest 3-year period. Consequently the presumption in favour of sustainable development contained in the Framework is engaged whereby planning permission should be granted unless 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.
31. Taking into account the current shortfall, the development would provide a limited contribution to housing supply in the area. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
32. Nevertheless, the identified adverse impacts of the development in respect of living conditions would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, including its presumption in favour of sustainable development.

Conclusion

33. The proposal would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given above I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR