
Appeal Decision

Site visit made on 24 May 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2021

Appeal Ref: APP/B5480/W/20/3262035

146 Corbets Tey Road, Upminster RM14 2ED

- 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 Manku against the decision of the Council of the London Borough of Havering.
 - The application Ref P0872.20, dated 24 June 2020, was refused by notice dated 24 August 2020.
 - The development proposed is demolition of existing nursing home and erection of 5 new dwellings in three blocks of high architectural quality, comprised of 2 and 2.5 storey buildings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal differs from the application form to the decision notice. The application form adequately describes the proposal in the sense that it seeks to demolish the existing nursing home and provide 5 new dwellings. I have determined the appeal on this basis.
3. The London Plan (2021) (LP) was adopted after the Council issued its decision notice. Both parties have had the opportunity to comment on its implications for this proposal although have not put any of its policies before me. I must determine the appeal based on the policies in place at the time of my decision.

Main Issues

4. The first main issue is the effect of the proposal on the character and appearance of the area. The second is the effect of the proposal on the living conditions of the neighbouring occupiers at 148 Corbets Tey Road (No. 148) with particular regard to any overlooking or loss of privacy to the rear garden. The third main issue is the effect of the proposal on the living conditions of future occupiers of the development in relation to the internal and external space provision.

Reasons

Character and appearance

5. Units 1 and 2 would sit on the southern side of the site and would front the busy Corbets Tey Road. These units would incorporate a large section of flat roof which would form nearly half of the roof area of the two dwellings. This

would afford these two units a sense of bulk which would be notable when travelling past the site along Corbets Tey Road.

6. This type of roof has been incorporated into the two properties immediately to the south. However, on these properties, the use of this roof form results in features which appear to take up limited amounts of the overall roofs. These roofs are also broken up by the inclusion of multiple roof slopes. Therefore, the flat roof sections on these properties do not form such dominant or bulky features as would be the case at the appeal site. They do not provide justification for the extent of the flat roof that would be provided at units 1 and 2.
7. I therefore conclude on this issue that for the above reasons, the proposal would harm the character and appearance of the area and would fail to accord with Policy DC61 of the Havering Core Strategy and Development Control Policies DPD (2008) (HCSDCP) which amongst other things requires proposals to respond to distinctive local building forms and patterns of development and respect the scale and massing of the surrounding physical context.

Living conditions (neighbouring occupier)

8. Units 4 and 5 would be orientated on a roughly north/south facing axis fronting onto Little Gaynes Lane. Given that the site has only limited width, the south facing first floor windows on these units would look towards the rear garden of No.148 from the north. They would be well sized primary windows serving bedrooms occupying a large proportion of the south facing walls of these rooms. That on unit 4 would be a full height opening.
9. Given their location at first floor level and proximity, it is likely that these windows would give rise to overlooking and loss of privacy to the rear garden at No. 148. Further, this loss of privacy would occur within the garden space closest to the dwelling which would most commonly be used. Although both bedrooms would be served by additional windows on their side walls, it would be unreasonable of me to impose a condition requiring that such large, primary windows to these rooms should be obscure glazed.
10. I therefore conclude on this issue that the proposal would be likely to have a significant adverse impact on the living conditions of the occupiers of No.148. Subsequently, the proposal would fail to accord with Policy DC61 of the HCSDCP which amongst other things states that planning permission will not be granted where a proposal results in unacceptable overlooking or loss of privacy to existing properties.

Living conditions (future occupiers)

11. The space standards¹ set out requirements for the Gross Internal (floor) Area of new dwellings. The appellant indicates that unit 2 would provide 3 bedrooms accommodating 5 persons over two storeys. However, the property incorporates three storeys by reason of its well sized top floor en-suite study/bedroom accessed via stairs which would continue upwards through the centre of the house. The evidence indicates that the gross internal floor area would be 97.73m², whereas the space standards require a minimum of 99m².

¹ Department for Communities and Local Government Technical housing standards – nationally described space standard March 2015.

12. Unit 5 would provide 2 bedrooms, accommodating 4 persons over two storeys. The gross internal floor area would be 70.55m², whereas the space standards require a minimum of 79m². The standards are a minimum, which developers are encouraged to exceed as detailed within the SPG².
13. The appeal proposal would therefore be contrary to Policy DC61 of the HCSDCP where it requires that development must meet the needs of all people of all ages. It would also conflict with SPD³ guidance which advises that the size and quality of internal spaces is an important issue, particularly for higher density development (such as this scheme).
14. The private amenity space attached to the dwellings, would, to varying degrees be partly overlooked from communal walkways and some first-floor windows. However, they would provide pleasant, intimate areas within easy access of the dwelling which would combine well with the larger communal amenity area which would be provided on site. I do not find conflict with the SPD, which does not prescribe fixed standards for private amenity space.
15. While privacy is a consideration for open space, it also has focus on space that is not overlooked from the public realm, is usable and clearly defined. It is likely that future residents could utilise planting to increase privacy if desired. I do not therefore find conflict with Policy DC61 of the HCSDCP in relation to this specific matter nor the guidance within the SPD or SPG. On the same matter I do not find conflict with the Framework⁴.
16. However, as a result of the matters previously identified, there would be conflict with relevant development plan policies.

Other Matters

17. I have considered other local development sites brought to my attention, but they do not exactly replicate the circumstances at the site. There is no evidence before me which confirms that the care home is no longer viable. I therefore afford these matters limited weight.

Other Considerations

18. Set against the harm identified there would be social and economic benefits associated with the proposal. Through making a cuttingly efficient use of the land, the additional units would make some difference to the overall supply of housing and would provide some support to the local economy during and after construction.

Planning Balance

19. The local plan dates from 2008 but the weight to be attached does not hinge on its age. Rather, paragraph 213 of the Framework makes it clear that due weight should be given to existing development plan policies according to their degree of consistency with the Framework. The Framework places significant emphasis on achieving well designed places.
20. At paragraph 127 amongst other things it states that planning decisions should create places which are sympathetic to local character including the

² Mayor of London Housing Supplementary Planning Guidance March 2016

³ Havering London Borough Design for Living Residential Design Supplementary Planning Document 2010.

⁴ National Planning Policy Framework 2019.

surrounding built environment and should create places that are inclusive and which promote health and well-being, with a high standard of amenity for existing and future users. Therefore, the conflict between the proposal and Policy DC61 of the HCSDCP should be given significant weight in this appeal. As the proposal would be contrary to this policy, there would be a conflict with the development plan as a whole.

21. The Housing Delivery Test (HDT) indicates that the delivery of housing within the borough has been substantially below the housing requirement over the past three years. In these circumstances footnote 7 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
22. Whilst I accept that there would be economic and social benefits associated with the provision of the scheme and acknowledge the HDT figures, I have identified multiple adverse impacts associated with the proposal. When considered together, I afford these adverse impacts, which are on multiple fronts, significant weight.
23. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

T J Burnham

INSPECTOR