
Appeal Decision

Site visit made on 21 July 2021

by R Bartlett PGDIP URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2021

Appeal Ref: APP/B5480/W/20/3262088

Land to the rear of 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 Mr James Wood (Harold Court Ltd) against the decision of the London Borough of Havering Council.
 - The application Ref P0818.20, dated 15 June 2020, was refused by notice dated 10 August 2020.
 - The development proposed is demolition of redundant garage buildings and the erection of 4no dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of redundant garage buildings and the erection of 4no dwellings with associated access, parking and landscaping at land to the rear of 12-26 Harold Court Road, Romford, London, RM3 0YU, in accordance with the terms of the application, Ref P0818.20, dated 15 June 2020, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. Since the application was refused both the London Plan and the National Planning Policy Framework (the Framework) have been revised. As the changes to the Framework are not material to the main issues in this case, no party has been prejudiced. Both main parties have commented on the revised London Plan. For the avoidance of doubt, this decision is based on the most recent versions of these documents.

Main Issues

3. The main issues are the effect of the development on the living conditions of future occupants, with particular regard to outlook and on the living conditions of adjacent residents, with particular regard to perceived overlooking.

Reasons

4. The appeal site is located between the rear of Nos 10-26 Harold Court Road and the rear of Nos 12-28 Thurso Close. These surrounding properties are two-storey terraced and semi-detached houses with long rear gardens. The site slopes gently upwards to the north and currently comprises two long rows of garages with a concrete roadway in between. The access into the site is located between Nos 26 and 28 Harold Court Road. It is proposed to demolish

the existing garages and to erect two pairs of semi-detached houses served by the existing access.

5. A previous, almost identical, application was refused by the council in November 2019. This was dismissed at appeal in April 2020 purely on the grounds of loss of privacy to the garden of No 8 Harold Court Road, the rear section of which is directly opposite the rear elevation of proposed plots 1 and 2.
6. To address this concern the internal layout of plots 1 and 2 has been amended resulting in each dwelling having only one first floor bedroom window and one ensuite bathroom window facing the garden of No 8, as opposed to the two bedroom windows previously proposed. The lower part of the first floor bedroom windows facing the garden of No 8 would be non-opening and obscure glazed. The windows to the non-habitable ensuite bathrooms would also be obscure glazed.
7. I am satisfied that the amendments made would address the concerns of the previous Inspector and would prevent the overlooking of the rear garden to No 8. Perceived overlooking is not the same as actual overlooking and would not in my view result in any actual harm or conflict with policy.
8. In addition to the partially obscure glazed window, the master bedrooms in plots 1 and 2 would also each have 2 high level roof lights, which given their height would not need to be fixed or obscure glazed. Accordingly, future occupiers of these houses would receive natural light and ventilation into the master bedrooms and would not have a poor quality of living simply because they do not enjoy the same views of their own garden or of neighbouring gardens from a bedroom window as neighbouring residents do.
9. Consequently, there would be no conflict with policy DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (CS & DCP), which states that planning permission will not be granted for proposals that, amongst other things, would result in unacceptable overlooking or loss of privacy to existing and new properties. I also find no conflict with the London Plan, the National Planning Policy Framework or the council's supplementary Planning Document: Residential Design (2010), which advises against main habitable room windows where nearby walls or buildings would appear overbearing or unduly dominant.

Other Matters

10. Owners and occupiers of multiple dwellings in the immediately surrounding area have strongly objected to the proposal, primarily on the grounds of highway safety (access, traffic, parking and emergency and refuse vehicle access), living conditions (overlooking, loss of light, loss of privacy, loss of outlook), effects upon trees and local wildlife, the effect upon the character and appearance of the area, security concerns and disturbance during the construction phase of the development.
11. These matters were considered in detail by the council and were found not to be justifiable reasons for refusals. I concur with those findings, subject to suitable conditions, which would mitigate those concerns.
12. I note that the residents of 16 Thurso Close have confirmed that the large Weeping Willow tree (T2) is within the garden of their property and not that of

No 14 as shown on the submitted drawings and Arboricultural Impact Assessment (AIA). Whilst I did not visit any neighbours, from what I could see on the appeal site, from public views, on the submitted plans and on aerial images, it would appear that the large Weeping Willow tree is indeed plotted incorrectly on the submitted drawings. Accordingly, the new dwellings (plot 4 in particular) would be slightly closer to the tree than shown. Although I have not been advised that the tree is formally protected, it is outside of the appeal site and outside of the appellant's ownership and therefore any potential harm to it must be taken into account.

13. In considering this matter I note that the root protection area of the tree is already beneath the existing garage buildings and concrete roadway. Moreover, I am aware that the appellant is entitled to trim back tree branches that overhang his land. The removal of the garages and concrete hardstanding from beneath the tree and the introduction of garden may well benefit the tree in the long term. The AIA sets out in detail methods of demolition and construction that would ensure the tree and its roots are protected. I am satisfied that the same protection measures would apply regardless of the slight error regarding the position of the tree in relation to the development.

Conditions

14. The council has suggested a number of conditions, which I have considered in accordance with the tests set out in the Framework and Planning Practice Guidance (PPG) and amended as necessary. I have imposed a condition to ensure that the development commences within 3 years and another listing the approved drawing numbers in the interests of certainty as to what has been approved.
15. To ensure a satisfactory end appearance, I have conditioned external materials, boundary treatments and landscaping. Whilst I note that the proposed location of bicycle and bin storage enclosures have been shown on the site plan, no elevations or materials have been provided for these structures and therefore these details have also been conditioned. All finished ground and floor levels are shown on the approved drawings and therefore a separate condition regarding this matter is unnecessary.
16. In the interests of safeguarding the security and living conditions of surrounding residents during demolition, construction and upon occupation of the development, I have imposed conditions requiring new boundary walls to replace the solid and secure boundary currently provided by the garages that are to be demolished. Due to the constrained nature of the site I consider that construction hours and a construction method statement are reasonable and necessary conditions to minimise disturbance to surrounding residents. I have removed permitted development rights for upward extensions, roof extensions, dormer windows and flank windows to ensure the development remains low rise and does not result in an unreasonable level of overlooking. However, I do not consider it necessary to remove all permitted development rights or to require non habitable bathroom windows or high level roof lights to be obscure glazed or permanently fixed shut.
17. Due to the previously developed nature of the site, the sensitive end use and the absence of any evidence to confirm there is no contamination, a contaminated land condition is necessary. Conditions to protect mature trees

on neighbouring land and to ensure drainage, parking and turning are provided in accordance with the approved details are also reasonable and necessary.

18. I have not imposed conditions requiring ultra-low NOx boilers, water efficiency or compliance with any other Building Regulations, which are covered by other legislation.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions set out in the schedule below.

Rachael Bartlett

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 3316-04a, 3316-05d, 3316-06d, 3316-07d, 3316-08e, 3316-09a and 3316-11a.
- 3) The external wall and roof materials to be used in the construction of the dwellings hereby approved shall be those detailed in the Design and Access Statement and on the approved drawings.
- 4) Within 1 month of the existing garages being demolished new boundary walls, to replace those currently formed by the existing garages, shall be constructed along the external site boundaries (to the rear of Harold Court Road and Thurso Close) in accordance with details that shall first be submitted to and approved in writing by the local planning authority.
- 5) Details of all other boundary treatments, not covered by condition 4, shall be submitted to and approved in writing by the local planning authority prior to their commencement and shall be completed in accordance with the approved details prior to the first occupation of the dwellings hereby approved.
- 6) No above ground works shall take place in relation to any of the development hereby approved until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 7) The demolition of the garages, all site and ground works and the construction of the development shall be carried out in strict accordance with the

Arboricultural Impact Assessment and Method Statement, Revision A, dated August 2019.

- 8) No dwelling shall be occupied until the drainage works have been completed in accordance with the submitted Drainage Strategy (Reference 191199/DS/MK/RS/01) dated August 2019.
- 9) No dwelling shall be occupied until the areas for car parking and turning have been laid out and surfaced in accordance with the approved plans. These areas shall be retained permanently thereafter and shall not be used for any other purpose.
- 10) No dwelling shall be occupied until cycle storage is provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The cycle storage shall be permanently retained thereafter.
- 11) No dwelling shall be occupied until refuse and recycling facilities are provided in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall be permanently retained thereafter.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no windows or roof windows (other than those expressly authorised by this permission) shall be created and no dormer windows shall be constructed on any of the dwellings hereby permitted.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no upward extensions shall be constructed and no alterations, extensions or additions to the roof of any of the dwellings hereby permitted shall take place.
- 14) No dwelling shall be occupied until the large first floor bedroom windows in the north west elevation of the dwellings on Plots 1 and 2, as shown on Drawing No. 3316-08 rev E, have been fixed and glazed with obscure glass of not less than level 4 on the standard scale of obscurity, for the lower three quarters of their height. These windows shall thereafter be maintained as such.
- 15) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority

within 30 days of the report being completed and approved in writing by the local planning authority.

- 16) All building operations in connection with the construction of external walls, roof, and foundations; site excavation or other external site works, including any works of demolition; works involving the use of plant or machinery; the erection of scaffolding; the delivery of materials; the removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 8.00am and 6.00pm Monday to Friday, and between 8.00am and 1.00pm on Saturdays and not at all on Sundays and Bank Holidays/Public Holidays.
- 17) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a) the parking of vehicles of site personnel and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials;
 - c) dust management controls;
 - d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction and demolition activities;
 - e) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
 - f) details of disposal/recycling of waste arising from the construction and demolition programme, including final disposal points. Note: The burning of waste on the site at any time is specifically precluded;
 - g) Wheel washing facilities and any other measures to prevent mud being deposited on the public highway.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.