



Appeal Decision

Site visit made on 14 September 2021

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday 22 December 2021

Appeal Ref: APP/B5480/W/21/3269451

56-58 St Mary's Lane, Upminster, RM14 2QP

- 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 Fraser MacFarlane against the decision of the Council of the London Borough of Havering.
 - The application Ref P1352.20, dated 15 September 2020, was refused by notice dated 8 Dec 2020.
 - The development proposed is demolition of an existing shop with flat above and the erection of 6 flats with associated parking and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing shop with flat above and the erection of 6 flats with associated parking and amenity space at 56-58 St Mary's Lane, Upminster, RM14 2QP in accordance with the terms of the application, Ref P1352.20, dated 15 September 2020, and the plans submitted with it, subject to the conditions included the schedule to this decision.

Procedural Matters

2. The Council's adopted policies are contained in its Core Strategy and Development Control Policies (2008). I refer to these collectively as its Development Plan.

Main Issues

3. The effect of the appeal scheme on:
 - the character and appearance of the area, and
 - the living conditions of future occupiers of flats 1 and 2 regarding the provision and location of private amenity space

Reasons

Character and appearance

4. The area surrounding the appeal site is primarily residential and includes development of varied styles. These include short terraces along Boundary Road and flatted development along St Mary's Lane. St Mary's Lane slopes steeply down the from the site of the Sacred Heart of St Mary's school towards the appeal site.

5. The appeal scheme comprises a residential block of ground and 2 upper floors located on the corner of St Mary's Lane with a vehicular and pedestrian access from Boundary Road serving a parking area.
6. Even allowing for the varied context of surrounding development the design of the appeal scheme would provide interest to the local area. Elevations would be modular with a series of planar forms emphasised through the use of a varied palette of materials including brick and render. The upper floor would be set back from both frontages and completed in profiled steel. The fenestration would be bold in design complementing the building's elevational treatment.
7. The scheme would be partially set in front of a notional building line drawn from No. 60 but set back by around 1m from the back edge of pavement on St Mary's Lane. Despite the overall size of the scheme, its staggered frontage would diminish its impact on the streetscene. In contrast whilst the scheme would extend close to the edge of the site boundary on the return frontage there is no defined building line to Boundary Road due to the location of the school complex and access at the rear of the appeal site.
8. Although the proposed building would be marginally higher than the ridge line of the existing property the set back of the top floor diminishes its impact on both the St Mary's Lane elevation and the return to Boundary Road.
9. Policy DC61 of the Core Strategy requires that new development should respond to the local distinctiveness of built form and patterns of development and the height, massing and scale of a site's surrounding physical context.
10. The Council's objection to the appeal scheme is concerned with the extent of its built footprint and massing. The local area does not have a definitive pattern of development as suggested by policy and in this context an innovative design could be accommodated within the streetscene.
11. Despite the slight increase in height over the existing development on the site its overall height would be consistent in reflecting the slope of St Mary's Lane. In respect of the building lines to both frontages these would not present a bland continuum of frontage given the elevational treatment. I recognise that the rear of the site would be primarily hard surfacing to allow sufficient car parking but this is not sufficient in my opinion to warrant an objection on this main issue.
12. For the above reasons, I conclude that the appeal scheme is not in conflict with the Policy DC61.

Living conditions

13. The configuration of private amenity space is limited for both flats 1 and 2. The amenity space for flat 1 is a thin strip located on the corner of the appeal site. The amenity space for flat 2 is set below the boundary with the neighbouring property but is set close to the parking court at the rear of the property.
14. I acknowledge that the private amenity spaces are limited in extent but they would allow space for sitting and passive enjoyment. The issues of privacy and the location of car parking which form the basis of the Council's objections can be addressed through a suitable form of boundary treatment in each case.

15. Whilst Policy 61 seeks to ensure that new development adheres to clear design principles, I do not find a conflict between the appeal scheme and this policy as this issue could be addressed through a suitably worded planning condition regarding boundary treatment.

Conclusions

16. Whilst I acknowledge that the form of the proposed development would be large it does not represent over development of the site. The elevational treatment would result in a positive addition to the streetscene. The Council's concerns on the configuration of private amenity space could be addressed through a planning condition.

Conditions

17. I have imposed conditions in respect of the plan numbers for reason of certainty. Furthermore, I have imposed conditions in respect of materials, landscaping, car parking, external lighting, vehicle access and boundary treatment to protect the character and appearance of the area. A condition in respect of boundary treatment is required also to address the Council's concerns with respect to the quality of the private amenity space.
18. Other conditions in respect of wheel washing, Construction Environmental Management Plan, vehicle cleansing, a construction logistics plan and hours of operation have been imposed in order to minimise localised environmental issues arising during the construction period.
19. In terms of the broader environmental agenda a range of conditions are imposed to minimise the use of water, reduce carbon dioxide emissions, recycling and the protection of air quality. Other conditions seek to ensure the flats would have high environmental standards with regard to boiler installation and the use of non road mechanical equipment during construction.
20. I have imposed a planning condition requiring that the ground floor dwellings are built to mobility standards to enable their use by people with mobility impairment. This would ensure the most effective use of the housing stock.
21. I have imposed a condition re the visibility splay for the access in order to maintain highway safety. A condition in respect of obscure glazing has been imposed in order to protect the living conditions of surrounding occupiers
22. A condition requiring further details of cycling stands are required to ensure a genuine choice of transport is available for occupiers of the flats.
23. I have included several conditions in respect of land contamination to safeguard the living conditions of future occupiers. I have imposed a condition in respect of obscure glazing required for windows on the eastern side of the scheme to prevent overlooking.
24. Finally, I have not included a condition which seeks to control permitted development rights as suggested by the Council as this is only applicable to dwelling houses.

Stephen Wilkinson

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: 20/21/01; 20/21/02; 20/21/03; 20/21/04; 20/21/05A; 20/21/06; 20/21/07 conceptual front perspective; 20/21/07 conceptual rear perspective.
- 3) Prior to above ground works a written specification of external walls and roof materials to be used in the construction of the buildings shall be submitted to and approved in writing by the local planning authority and thereafter the development shall be constructed with the approved materials.
- 4) Prior to the first occupation of the development, details shall be submitted to and agreed in writing by the local planning authority for the installation of Ultra low NOx boilers with maximum NOx emissions less than 40mg/k/Wh. Where any installations do not meet this emission standard it should not be operated without the fitting of suitable NOx abatement equipment or technology as determined by a specialist to ensure comparable emissions. The installation of the boiler shall be carried out in strict accordance with the agreed details and shall thereafter be permanently retained. Following installation, emission certificates will need to be provided to the local planning authority to verify boiler emissions.
- 5) Notwithstanding the details in the approved plans no dwelling shall be occupied or its use commenced until there has been submitted to and approved by the local planning authority a scheme of hard and soft landscaping. The scheme shall include an indication of all existing trees and shrubs on the site and details of those to be retained together with measures for their 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. Any trees or plants which within a period of five years from completion of the development die, or are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, 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), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out [and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority] before the development [or relevant phase of development] is occupied.
- 8) The building/extension hereby permitted shall not be occupied until the windows at first and second floor on the eastern elevation have been fitted with obscured glazing, and no part of that/those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 10) 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; erection of scaffolding; the delivery of materials; removal of materials and spoil from the site, and the playing of amplified music shall only take place between the hours of 08.00 – 18.00 Monday to Friday

and between 08.00 – 13.00 Saturdays and not at all on Sundays and Bank Holidays and Public holidays.

- 11) Prior to the first occupation of the residential units hereby permitted, the scheme for external lighting shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full prior to commencement of the hereby approved development and permanently maintained in accordance with the approved details.
- 12) The building/extension hereby permitted shall not be occupied until the windows on the buildings eastern elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 13) Flats 1 and 2 hereby approved shall be constructed to comply with Part M4(2) of the Building Regulations – Accessible and Adaptable dwellings.
- 14) All dwellings hereby approved show comply with regulation 36 (2)(b) and part G2 of the building regulations - water efficiency.
- 15) The proposal shall provide a 2.1m by 2.1m pedestrian visibility splay on either side of the proposed access set back to the boundary of the public footway. There should be no obstruction or object higher than 0.6m within the visibility display.
- 16) No part of the development hereby approved shall be occupied until access to the highway has been completed in accordance with the details that have been previously submitted to and approved in writing by the local planning authority.
- 17) Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to an approved in writing by the local planning authority. The CEMP shall be written in accordance with the Mayor of London supplementary planning guidance documents 'Sustainable Design and Construction' and the 'Control of Dust and Emissions during Construction and Demolition (2014), BS 5228 Parts 1 and 2 and shall include the following:
 - Site map
 - Complaint investigation procedures
 - mitigation measures against negative impact on air quality and receptors in the vicinity of the development
 - measures that will be taken to reduce the impacts on air quality during all construction phases

- confirmation that all relevant NRMM is registered on the nrmm.london website and meet standards of the London low emission zones for NRMM
- a maintenance schedule of proposed dust mitigation measures
- noise predictions managing risk in reducing impacts
- details of waste storage, including handling asbestos and contaminated land
- details of mitigation measures to prevent nuisance from artificial lighting
- details of measures to protect existing installations
- details of procedures for emergency an environmental incidents e.g. health and safety procedures dealing with spillages

The development shall be undertaken in accordance with the approved plan.

- 18) All Non-Road Mobile Machinery (NRMM) of netpower of 37 kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with emission standards required by the GLA supplementary planning guidance 'control of dust and emissions during construction and demolition' (2014) or subsequent guidance.

Unless it complies with the standards set out in the SPG no NRMM shall be on site at anytime whether in use or not without the written consent of the local planning authority.

The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>.

- 19) Before the building hereby permitted is first occupied, the area set aside for car parking shall be laid out and surfaced to the satisfaction of the local planning authority and retained permanently thereafter for the accommodation of vehicles visiting the site and shall not be used for any other purpose.
- 20) No dwelling shall be occupied or use commenced until details of all proposed gates walls fences and boundary treatment shall be submitted to and approved in writing by the local planning authority. This includes boundaries between the car parking and private amenity areas.
- 21) Notwithstanding the details in the approved plans no dwelling shall be occupied or use commenced until refuse and recycling facilities are provided in accordance with details which have previously been submitted to and approved in writing by the local planning authority. The refuse and recycling facilities shall be permanently retained thereafter.
- 22) Notwithstanding the details on the approved plans no dwelling shall be occupied or use commenced until cycle storage is provided in accordance with details previously submitted to and approved in writing by the local planning authority. The cycle storage shall be permanent retained thereafter.

- 23) 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:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) the routes construction vehicles will take in order to respect the living conditions of residents of Hornchurch and Upminster
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) delivery, demolition and construction working hours.

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