



Appeal Decision

Site visit made on 14 December 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2022

Appeal Ref: APP/B5480/W/21/3272154

Land Behind 36-40 Collier Row Lane, Romford RM5 3BJ

- 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 Yas Tar Developments Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P1813.20, dated 2 December 2020, was refused by notice dated 2 February 2021.
 - The development proposed is 9 new dwellings to the rear of 36-40 Collier Row Lane, Romford RM5 3BJ including demolition of the existing garages to numbers 38 and 40.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted the new Havering Local Plan (2016 to 2031) (the HLP) on 17 November 2021, during the appeal process, replacing The Core Strategy and Development Control Policies DPD (2008) which has been withdrawn. I have therefore had regard only to the relevant policies of the HLP in determining the appeal. The main parties have been afforded the opportunity to comment on this material change in the policy context, and I have taken the replies received into consideration.
3. On 14 January 2022, the Government published the 2021 Housing Delivery Test (HDT) results, which show the Council's delivery has continued to be below the requirement over the last three years (at 46%), and the Council remains under the 'presumption' status as it was following publication of the 2020 HDT results. Therefore, the published results do not materially change the Council's position, nor do they have any implications for the parties' respective arguments at appeal. Therefore, it has not been necessary to seek the parties' further views in this matter.

Main Issues

4. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) Whether the proposal would provide an acceptable standard of accommodation for future occupants, and;
 - iii) The effect of the proposal on neighbours' living conditions, with respect to overlooking and privacy.

Reasons

Character and Appearance

5. The appeal relates to a backland site to the rear of Collier Row Lane, Wainfleet Avenue and Thameshill Avenue. The site is accessed between 38 and 40 Collier Row Lane. It is largely derelict and in an overgrown state, with substantial tree cover and remnants of garden sheds and other detritus scattered around the site. The site adjoins the rear gardens of nearly 30 other properties on all sides, the boundaries comprising tall solid timber or low wire mesh fencing. A number of dwellings to Thameshill Avenue have outbuildings to the rear of their gardens which provide a physical screen to the appeal site.
6. Planning permission has previously been granted at appeal¹ in January 2019 for five dwellings on the land, but within a smaller site area which did not include the north-western corner of the site. The current proposal seeks to create nine dwellings on the land. Units 1-4 would be semi-detached pairs in a similar, but slightly altered position to the corresponding units of the approved scheme. Unit 5 would also resemble the approved scheme, being a detached dwelling located within a pocket of land to the north-eastern corner of the site.
7. The additional units are four flats proposed within a two storey building to the north-western corner of the site. The building would match the external appearance of the other dwellings within the proposal, with facing brickwork to the ground floor and render to the first floor, but it would have a flat, green roof, in contrast to the pitched roofs of the other dwellings. I understand that a pitched roof was originally proposed under an earlier withdrawn application.
8. The approved scheme, based on the plans before me, concentrated the built form towards the centre of the site, with the rear gardens of the proposed dwellings providing separation from the rear gardens of neighbouring dwellings. Although the site area has been extended to accommodate the additional units sought, and the overall density of the site would fall within the recommended ranges of the London Plan, the creation of the flatted building would result in a more intensive form of development. The proposed flatted building would extend development into the north-western corner of the site, with the side and rear elevations standing much closer to the side boundaries and neighbouring gardens. The building would stand immediately at the end of several gardens of properties on Wainfleet Avenue and Thameshill Avenue, and at two storeys in height would appear as a prominent and imposing structure.
9. Development to this corner of the site would also require removal of significant amounts of vegetation which presently provides a verdant backdrop for neighbouring dwellings and contributes to a tranquil character that contrasts with the busier suburban environment of the surrounding public realm. Whereas the central position of the other dwellings would provide space for new perimeter planting that would screen the dwellings and help to retain much of the current natural appearance, the position of the proposed flatted building would not allow for this, particularly to the Thameshill Avenue boundary. There would also be a risk that any trees planted to the rear of the flats would eventually come under pressure for removal if they obscured light to the rear windows due to their proximity to the building.

¹ Appeal Ref: APP/B5480/W/18/3194999, allowed 15 January 2019

10. In terms of the building's design, a flat roofed structure would be wholly at odds with the surrounding pattern of development which is formed entirely of pitched or hipped roofs. The building would also appear as an aberration when viewed next to the other dwellings in the development, where the flat roof would leave the building appearing incomplete by comparison. I recognise that a pitched roof was omitted to address potential overbearing issues, but the resulting design, including the green roof, fails to respect the surrounding context and so would be harmful to the character and appearance of the area.
11. For these reasons, I conclude that the proposal would harm the character and appearance of the area, in conflict with Policy 26 of the HLP, which requires development to achieve high quality design that, among other things, respects, reinforces and complements the local street scene; responds to distinctive local building forms and patterns of development and respects the visual integrity and established scale, massing and rhythm of the building, frontages, group of buildings or the building line and height of the surrounding physical context.

Standard of Accommodation

12. Policy 7 of the HLP sets out that developments should be of a high design quality that is inclusive and provides an attractive, safe and accessible living environment for new residents. To achieve this, the Council will support developments that meet the Nationally Described Space Standard (NDSS)². Policy D6 of the London Plan (2021) also states that dwellings must provide at least the gross internal floor area of the standards.
13. The Council's concern relates to the proposed flats. They are each proposed as one bedroom units, but those on the northern side are presented as one person units and those on the southern side would have an additional room described as a study and are described as two person units. Both flats to the northern side of the building would measure 44sqm in internal area. The Council considers that the size of each bedroom, at 11.5sqm, meets the minimum size for a double bedroom within the NDSS and, therefore, they should be regarded as two person units. I acknowledge the appellant's points that the bedroom and flats exceed the respective sizes for a single bedroom (7.5sqm) and a one-person flat with a bathroom (39sqm) and that the NDSS should not be used negatively where larger rooms and homes can be provided.
14. However, the 'single' bedrooms in this case would actually be larger in area than the double bedrooms proposed to the southern units, the difference in floor space between the flat being mainly due to the study rooms proposed. Given this, I consider it realistic that the northern flats would be occupied by two people in a similar manner to the southern flats. It would also be very difficult to restrict occupancy of the flats to one person so as to achieve the more spacious accommodation argued by the appellant. In this circumstance, I find it reasonable to consider the northern flats as two-person units. That being the case, there would be a shortfall of some 6sqm or 12% against the NDSS.
15. The Council also points to the lack of private external space for the flats, contrary to its Residential Design Supplementary Planning Document (SPD). The plans indicate that the space to the rear of the flats would be communal. If so, this would result in harmful loss of privacy for occupants of the ground floor units if other occupants could use this space and look through the rear windows

² Technical housing standards – nationally described space standard (March 2015)

of the flats. Private external space, whether a garden, terrace or balcony, provides valuable space for sitting out, drying clothes or storage, particularly in smaller flats where space is limited. Overlooked communal space would not provide the same utility as private space in these respects. Moreover, the lack of private external space would be more acutely felt by occupants of the northern flats given the shortcomings with the internal floorspace.

16. Drawing these considerations together, I recognise that the identified shortfalls against the relevant national space standards are not significant, nor are the standards the sole determinant of substandard accommodation. However, the additional lack of private external space to each of the flats, and the potential for overlooking and loss of privacy to the ground floor flats, means that, overall, I conclude that the proposal would fail to provide a suitable standard of accommodation for future occupants, in conflict with the aforementioned requirements of Policy 7 of the HLP and Policy D6 of the London Plan 2021.

Neighbours' Living Conditions

17. The Council's concern relates to the potential overlooking of properties at 16, 18 and 20 Wainfleet Avenue from the proposed flats. It is indicated that the rear windows of these dwellings would be some 27m from the windows of the proposed flats, and 4.5m from the rear of the gardens. The Council's SPD does not set specific separation distances between dwellings or gardens. The proposed first floor windows would have some outlook over these neighbouring gardens, but given their setback position and the tall boundary fencing, views would not be direct or invasive. The gardens of the neighbouring properties are also already subject to views from the upper floors of dwellings to either side at closer range than the proposed flats. Proposed planting along the perimeter of the site would also help to filter views over neighbouring dwellings.
18. Therefore, I find that the proposed flats would not result in harmful levels of overlooking that would undermine the privacy of neighbouring occupants. Consequently, I do not find conflict with Policy 7 of the HLP which requires development to be of a high design quality that ensures that the amenity and quality of life of existing and future residents is not adversely impacted.
19. In reaching a view, I note concerns regarding overlooking of other properties surrounding the site. However, the other proposed dwellings would be in similar positions to those previously approved and the Council has not identified additional harm in this respect. Based on my observations, there would be sufficient distance between facing windows, along with perimeter screening from outbuildings, fencing and/or planting. Given this, I am satisfied that harmful direct overlooking would not arise elsewhere from the proposal.

Other Material Considerations

20. The Council concedes that due to its failure to meet the requirements of the HDT, the 'tilted balance' set out at Paragraph 11 of the National Planning Policy Framework (the Framework) is engaged, which states that 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.
21. The proposal would deliver additional homes for the Borough's housing stock in an accessible location and on presently underutilised land. Given the shortfall in

housing delivery locally, and the housing aims of the HLP, London Plan and Framework, this would be a benefit of the proposal. It would also be a small site supported in principle under Policy H2 of the London Plan 2021. However, the benefits of using the land would be reduced given that the flats would not provide a suitable standard of accommodation and there would be a notable reduction in tree cover which provides visual amenity. Nonetheless, I accept that the provision of nine units would be a meaningful contribution to the overall housing target attracting considerable weight in favour of the proposal.

22. There would be economic benefits for the local building trade in implementing the development, although these would be temporary, and from engagement by future occupants in the local economy. However, given the scale of the development, such benefits would attract limited weight. The proposed green roof to the flats, and planting elsewhere, would be a largely neutral factor given the proposed removal of trees and vegetation throughout the site.
23. The previous planning permission is dated 15 January 2019 and would now have lapsed if not implemented. Although I saw the garages to Nos 38 and 40 have been partially demolished, I have no specific evidence that the permission has been commenced. It is therefore unclear if the permission remains as a fall-back position for the appellant. However, the harm identified relates to the additional building not forming part of the approved scheme. Therefore, even if the fall-back position exists, it would not represent a more harmful scheme that would lend weight to the current proposal as a preferable alternative.
24. I have had regard to other concerns raised by interested parties, including damage from tree removal, harm to wildlife, flooding and drainage concerns, safety and crime concerns, parking and traffic issues, and the use of Nos 36-38 as houses in multiple occupation. Ultimately, the Council does not oppose the proposal on grounds other than those set out in the main issues and I have limited evidence in respect of these other matters to make further findings of harm. I do not dismiss these other concerns, but taking account of the evidence before me, they are not matters of such significance as to result in further benefits or harms to be factored into the planning balance.

Planning Balance and Conclusion

25. The identified benefits would attract various weight in favour of the proposal as set out above. Against this, the development would result in significant harm to the character and appearance of the area and an unacceptable standard of accommodation that would undermine future occupants' living conditions. Overall, I conclude that the adverse impacts I have found would significantly and demonstrably outweigh the benefits identified. The proposal would therefore not benefit from the presumption in favour of sustainable development provided by Paragraph 11 of the Framework.
26. For the reasons given, the proposal would conflict with the development plan, taken as a whole. I afford significant weight to this conflict. Material considerations, including the Framework, do not indicate that this appeal should be decided other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K. Savage INSPECTOR