



Appeal Decision

Site visit made on 7 February 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2022

Appeal Ref: APP/B5480/W/21/3278448

307-309 St. Marys Lane, Upminster, RM14 3DA

- 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 Kafeel Khan (Khansons Properties Ltd) against the decision of London Borough of Havering.
 - The application Ref P0305.21, dated 9 February 2021, was refused by notice dated 14 May 2021.
 - The development proposed is erection of a single storey one bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey one bedroom dwelling at 307-309 St. Marys Lane, Upminster, RM14 3DA in accordance with the terms of the application, Ref P0305.21, dated 9 February 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council adopted the Havering Local Plan 2016-2031 after the application the subject of this appeal was determined. I have determined this appeal in accordance with this new Local Plan.
3. The cardinal points shown on the submitted plans are inaccurate. However, I am satisfied that the plans are easily understood with reference to the existing houses at Nos 307 and 309 as well as to St Marys Lane.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and,
 - Whether it would provide acceptable living conditions for future occupiers, including the effect on the approved development at 307 St Mary's Lane.

Reasons

Character and appearance

5. The appeal site is previously developed land at the rear of two existing houses, with a shared access from the street. Surrounding development principally comprises houses directly addressing the street with small scale outbuildings in their rear gardens.

6. While the development would be of limited visibility in the street scene, it would be visible from surrounding properties. Within this context the introduction of a new dwellinghouse would be an uncharacteristic form of development. It would create an additional residential curtilage, reducing the garden of the new house at 307. The resulting site layout would be inconsistent with the pattern of development in the wider area. In addition, the need for parking for the proposed house in the space between it and No 309 would result in the front garden to 307 being converted to a parallel parking bay. This would detract from the appearance of that property in the street scene.
7. Overall, the appeal proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policies 7, 26 and 27 of the Havering Local Plan 2016-2031 (the HLP). Taken together these policies require that residential development be of a high design quality and is informed by, respects and complements the distinctive qualities, identity and character of the site and local area.

Living conditions

8. The proposed house would be sited to the rear of existing houses, with the main garden space overlooked as a result. However, overlooking between properties is common in urban locations. The proposal would also provide a separate patio area which, while small, would provide a private area that would exceed the minimum space requirement of 5 square metres for a one bedroom dwelling set out in Policy D6 of the London Plan (the LP). On balance, therefore, the development would provide acceptable outdoor space for future occupiers.
9. The site layout would result in cars manoeuvring close to the front of the house, with a window to the main living area facing directly along the access road and therefore liable to be exposed to glare from oncoming car headlights at night. In addition, the parking spaces are immediately outside a window to the bedroom. However, the scale of development is limited with only one car other than that owned by the occupiers of the house likely to use the access on a regular basis. The scale of disturbance arising from this level of movement would not be so significant that it would cause unacceptable harm to the living conditions of future occupiers.
10. The proposed development would reduce the rear garden size previously approved for No 307 in addition to the conversion of its front garden into a parking space. However, the Council does not have a minimum garden space standard, and this reduced space would still exceed the minimum space sought in the LP.
11. On balance, therefore, the proposed development would provide acceptable living conditions for future occupiers of the proposed and existing houses. It would therefore accord with Policy 7 of the HLP and Policy D6 of the LP. Taken together these policies require that residential development provide high quality, usable amenity space and private outdoor space.

Other Matters

12. The properties at 303-305 and 309 St Mary's Road are non-designated heritage assets. The Council concluded that the development would not cause harm to

the setting of these properties, and I see no reason to disagree with this conclusion.

13. Car parking at the development is provided with one space for each of the three existing and proposed houses. The Council has raised no objections to this level of provision, and I see no reason to find otherwise.
14. Concerns about the potential for harm to neighbouring trees can be addressed by an appropriately worded condition.

Planning Balance

15. The Council has failed to meet its housing delivery targets, with a substantial shortfall according to the latest Housing Delivery Test. The presumption in favour of sustainable development identified in the National Planning Policy Framework (the Framework) is therefore engaged.
16. The proposed development would deliver one additional dwelling. It would therefore support the Government's stated objective of significantly boosting the supply of homes. The proposal involves the reuse of previously developed land, and both the Framework and LP express support for development on small sites which can be delivered quickly. The site is in a sustainable location with good access to public transport. Given the shortfall in housing delivery, these considerations attract moderate weight in favour of the proposed development.
17. Set against this would be the harm to the character and appearance of the area. The site is in an urban location and was previously occupied by a builders yard that included a substantial building on a similar footprint to the proposed house. The house would be a single storey in height and not prominent in the wider area, although its siting would be out of keeping with the character of the area. Given the relatively small scale of the development, this harm attracts moderate weight in the overall balance.
18. In this instance, therefore, the adverse impacts that would arise from the appeal proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. This is therefore a material consideration indicating that this appeal should be determined other than in accordance with the development plan.

Conditions

19. I have had regard to the conditions suggested by the Council considering national planning practice guidance. I have imposed the standard time limit condition (1), and a condition specifying the approved plans (2) for the sake of certainty.
20. Conditions requiring details of external materials (3), refuse and recycling storage (4), landscaping (5) and boundary treatments (6) are reasonable and necessary to ensure that the finished development would be acceptable in this location in terms of its appearance and relationship to neighbouring properties and the wider area.
21. I have imposed conditions requiring completion of the vehicle access (7) and car parking (8) and any external lighting (9) prior to occupation of the dwelling to ensure that satisfactory arrangements are in place for its future occupiers.

22. Conditions relating to compliance with aspects of the Building Regulations relating to water efficiency (10) and accessibility (11) will ensure that the approved dwelling would be constructed in accordance with appropriate sustainability measures.
23. A condition specifying acceptable construction hours (12) is reasonable and necessary to avoid undue disturbance from construction noise to neighbouring occupiers, given the closeness of neighbouring houses. Conditions relating to wheel washing (13) and construction management (14) will prevent the development causing undue disruption in the area.
24. Conditions relating to the investigation and detection of contaminated land (15 and 16) are justified having regard to the site's previous use as a builder's yard.
25. The Council suggested conditions removing the approved house's Permitted Development rights for extensions, outbuildings and the insertion of windows in its flank walls. National planning practice guidance suggests that such conditions are unlikely to pass the tests of reasonableness and necessity. There is no indication why these conditions would be justified in this instance. While the site is small, this would in turn limit the scale of any future building works carried out under Permitted Development. As the house would be a single storey in height, with one flank wall set against a boundary fence and the other containing the main window and external door to the larger garden area, constraints on additional openings to these walls are not justified.

Conclusion

26. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR

Schedule of conditions for appeal ref: APP/B5480/W/21/3278448

307-309 St Marys Lane, Upminster, RM14 3DA

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: 20-604-P00, 20-604-P01, 20-604-P02, 20-604-P03, 1:1250 location plan
3. Prior to construction commencing above ground level, samples of all materials to be used in the external construction of the building are submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials.
4. No building shall be occupied until refuse and recycling storage with details of access to the site are provided in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage provision shall be permanently retained thereafter.
5. No relevant works shall take place in relation to any of the development hereby approved until there has been submitted to and approved 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 on neighbouring sites, and details of any to be retained, together with measures for their protection in the course of development. The landscaping works shall thereafter be carried out in accordance with these approved details. 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, unless otherwise agreed in writing by the local Planning Authority.
6. Prior to first occupation of the proposed dwelling hereby approved, details of all proposed walls, fences and boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority. The boundary development shall then be carried out in accordance with the approved details and retained permanently thereafter to the satisfaction of the Local Planning Authority.
7. 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 in consultation with the Highway Authority, and any agreements required under the Highways Act 1980 have been entered into. The access shall provide a 2.1 by 2.1 metre pedestrian visibility splay on either side of the proposed access road, set back to the boundary of the public footway. There should be no obstruction or object higher than 0.6 metres within the visibility splay.
8. Before the dwelling 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.

9. No building shall be occupied or use commenced until external lighting is provided especially from the access road in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The lighting shall be provided, retained, and operated in strict accordance with the approved scheme.
10. Prior to first occupation, the dwelling hereby approved shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations - Water Efficiency.
11. Prior to first occupation, the dwelling hereby approved shall be constructed to comply with Part M4(2) of the Building Regulations - Accessible and Adaptable Dwellings.
12. All building operations in connection with the construction of external walls, and other external site works, works involving the use of plant or machinery, the erection and removal of scaffolding, the delivery of materials, the removal of materials and soil 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.
13. Before the development hereby permitted is first commenced, vehicle cleansing facilities to prevent mud being deposited onto the public highway during construction works shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be retained thereafter and used at relevant entrances to the site throughout the duration of construction works. If mud or other debris originating from the site is deposited in the public highway, all on-site operations shall cease until it has been removed.

The submission will provide;

- a) A plan showing where vehicles will be parked within the site to be inspected for mud and debris and cleaned if required. The plan should show where construction traffic will access and exit the site from the public highway.
 - b) A description of how the parking area will be surfaced, drained and cleaned to prevent mud, debris and muddy water being tracked onto the public highway;
 - c) A description of how vehicles will be checked before leaving the site - this applies to the vehicle wheels, the underside of vehicles, mud flaps and wheel arches.
 - d) A description of how vehicles will be cleaned.
 - e) A description of how dirty/ muddy water be dealt with after being washing off the vehicles.
 - f) A description of any contingency plan to be used in the event of a break-down of the wheel washing arrangements.
14. No works shall take place in relation to any of the development hereby approved until a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers is

submitted to and approved in writing by the Local Planning Authority. The Construction Method statement shall include details of:

- a) parking of vehicles of site personnel and visitors;
- b) storage of plant and materials;
- c) dust management controls;
- d) measures for minimising the impact of noise and ,if appropriate, vibration arising from construction activities;
- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority;
- f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the Local Planning Authorities;
- g) siting and design of temporary buildings;
- h) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
- i) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

And the development shall be carried out in accordance with the approved scheme and statement.

15. Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority details of:

- a) A Phase I (Desktop Study) Report documenting the history of the site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.
- b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
- c) A Phase III (Remediation Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to all receptors must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and procedure for dealing with previously unidentified any contamination. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- d) Following completion of measures identified in the approved remediation scheme mentioned in 1(c) above, a "Verification Report" that demonstrates the effectiveness of the remediation carried out, any requirement for longer-term monitoring of contaminant linkages, maintenance and arrangements for contingency action, must be produced, and is subject to the approval in writing of the Local Planning Authority.

16.If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented as approved. Following completion of the remediation works, a 'Verification Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

End of schedule of conditions