



Appeal Decision

Site visit made on 17 October 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2022

Appeal Ref: APP/B5480/W/22/3295214

Judith Anne Court, Westbury Terrace, Upminster RM14 3ND

- 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 Martin Gibbon (Bandsite Properties) against the decision of the Council of the London Borough of Havering.
 - The application Ref P1875.21, dated 25 October 2021, was refused by notice dated 20 December 2021.
 - The development proposed is the demolition of existing single-storey garage block and the erection of a new three-storey building consisting of 4 residential units (2 X 1-bed, 2 X 2-bed) and associated parking spaces and landscaping works at ground floor level.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case are:
 - the effect of the proposal on the living conditions of the occupants of No 1 Westbury Terrace, with respect to outlook;
 - the effect of the proposal on highway safety;
 - the effect of the proposal on the character and appearance of the surrounding area; and
 - whether the proposal provides adequate living conditions for future occupiers, with respect to the provision of outdoor space.

Reasons

Living Conditions

3. The proposed development would be sited on the eastern side of the site, adjacent to No 1 Westbury Terrace (No 1). The principal outlook from the rear of this property is over the rear garden. The existing single storey garage block is not visible over the side boundary fence and whilst the existing Judith Anne Court residential blocks are visible to the side, there remains sufficient separation distance to ensure that the outlook from the rear of this property at present is mostly open and pleasant.
4. The garden is a good size and views over it to the rear would remain. In addition, the proposed development would be separated by the existing access lane to the electricity substation and would be slightly angled away from No 1. However, the proposed building would introduce built form extending the

majority of the rear garden's depth. Given the height of the building, the occupants of No 1 would be faced with a significant and prominent blank elevation in sufficiently close proximity to restrict the existing outlook and be visually dominant, even over the existing boundary fence.

5. Whilst the massing would be somewhat reduced by the central single storey element, there would remain a substantial sense of enclosure along the length of the side boundary. The development would result in undue harm to the outlook from the nearest rear facing habitable room window, which serves the kitchen at the back of the single storey side projection, as well as from the garden space of No 1. The development would adversely affect the quality of living conditions available to users of this room and the garden area as a result.
6. The appellant points to a lack of conflict with a 45-degree line. It is unclear whether this has been drawn from the nearest ground floor habitable room window, which limits the weight that I can attach to this matter. Moreover, this would not be relevant to a sense of enclosure from the garden.
7. Therefore, I conclude that the proposal would harm the living conditions of No 1 Westbury Terrace with respect to outlook. Accordingly, it would conflict with Policy 7 of the Havering Local Plan 2016-2031 (2021) (LP), which, amongst other matters and in accordance with National Planning Policy Framework (Framework) paragraph 130f, seeks to protect the amenity of neighbouring occupiers.

Highway Safety

8. The proposed development would result in the loss of the existing garages and the provision of a number of under-croft parking spaces. Whilst the under-croft arrangement is an alteration to the existing open site, this does not necessarily lead to a cramped layout. Several spaces, for example No 34, 27 and 8 and particularly 30 and 29 would require careful manoeuvring to access given the proximity of supporting pillars and/or bollards, however this is not unusual in any number of under-croft parking arrangements. Given the managed and allocated nature of the parking area (details of which could be secured through an appropriate condition), I am satisfied that the widths of any the access ways and accessibility of the under-croft parking spaces are acceptable and safe.
9. However, Framework paragraph 110 requires safe and suitable access to the site for all users. The pedestrian access to the new building would take pedestrians in between parking spaces 1 and 2. If these spaces were occupied, visibility of any users of the pathway to drivers using the access would be compromised, and this could lead to conflict between pedestrians and car drivers at this point.
10. Moreover, the pedestrian access extends over the vehicular access way. Whilst I am advised that the pathway would be indicated in different coloured paving, there would remain the potential for conflict with cars parking in the under-croft area and spaces 8 to 16. Should this arise, there is no obvious safe place for pedestrians save for the small area directly next to the entrance set behind bollards, which would only be convenient for pedestrians exiting the building. In addition, the siting of the recycle and bin storage area directly next to the vehicular access point would also have no clear safe pedestrian access, and this

would further increase the possibility of conflict between pedestrians and car drivers.

11. I note the appellant's comments regarding the wording of the Council's issues in this regard as set out in the delegated report and reason for refusal, however, it is commonly accepted in highway safety issues that the possibility or potential for conflict is sufficient grounds for refusal. In any case, I have considered the issue on the basis of the plans and information before me.
12. As such, and despite the lack of objection from the Highway Authority, I find that the proposed development and the parking layout would lead to conflict between road users and pedestrians, and therefore harm highway safety. The proposal would therefore be contrary to the highway safety objectives of LP Policies 7, 23 and 24 and London Plan (2021) Policy T6.

Character and Appearance

13. Judith Anne Court comprises of two, four-storey residential blocks, set around a forecourt parking area and a row of lock up garages. The site sits on a roughly triangular plot, neighboured by the two storey semi-detached properties of Westbury Terrace to the east, a railway line at the rear and west and St Mary's Lane to the north. Between the site and Westbury Terrace is the access to an electricity substation at the rear.
14. Save for the appeal site, the area is characterised by suburban two storey detached or semi-detached dwellings. The proposed development would replace the existing row of garages with a three-storey block; however, it would have the same ridge height as the neighbouring properties along Westbury Terrace. The width of the building facing the highway would also be similar to the semi-detached pairs of units along Westbury Terrace. The access lane between them would mean that there would remain a visual separation gap between the building and No 1.
15. The massing of the building would be reduced by the design which breaks up its bulk, and its depth would match the existing row of garages and the projection of Judith Anne Court. It would therefore follow the pattern of development on the existing site in this respect.
16. Given its location between the neighbouring two storey semi-detached properties and the substantial height and massing of the four storey Judith Anne Court buildings, the scale of the proposed building would not therefore appear incongruous nor overly dominant.
17. The roof form would complement the existing dwellings along Westbury Terrace in addition to Judith Anne Court, and the front gables would match the semi-detached pairs along Westbury Terrace. The fenestration would not appear out of keeping with the general pattern of the surrounding buildings. The under-croft car park area and garage door opening to it would also not appear incongruous in the context of the existing garages and that of No 1.
18. The location of the entrance area facing the car parking area would match that of the existing front Judith Anne Court building. Materials to match, secured through an appropriately worded condition, would further ensure the development would result in a well-proportioned and balanced form that would sit comfortably with the existing character and appearance of the surroundings.

19. I therefore conclude that the proposed development would maintain the character and appearance of the surrounding area. The proposal would therefore comply with LP Policies 7 and 26, which set out that development should be of high quality. There is also no conflict with the requirements of Policies D3 and D4 of the London Plan, which along with the Framework, seek to ensure that development responds to the site context and delivers good design.

Living Conditions for Future Occupiers

20. LP Policy 7 sets out that that the design and provision of private amenity space is particularly important in flatted schemes. London Plan Policy D6 sets out that where there are no higher local standards, *'a minimum of 5 sq.m. of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m. should be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5m'*.
21. There is no dispute between the parties that the balconies serving units 1 and 3 do not meet the required size. Given their siting, no issues have been raised regarding these existing balconies in terms of overlooking, nor in terms of visual impact. Given the limited size shortfall of the balconies, I am satisfied that slightly larger balconies that meet the policy requirement would not lead to any additional impact in relation to these issues and could be secured via condition without prejudicing any interested parties.
22. Subject to a condition securing this, the proposal would provide adequate living conditions for the intended future occupiers of the scheme, with particular reference to the provision of outdoor space. Accordingly, there would be no conflict with LP Policy 7 and London Plan Policy D6, which, amongst other matters and in accordance with the Framework, seek to ensure high standard of amenity for existing and future users.

Conclusion

23. There are no material considerations that indicate the application should be determined other than in accordance with the development plan.
24. Although I have found that the proposed development would not result in harm to the character and appearance of the area and would provide acceptable living conditions for future occupiers, the harm identified to the living conditions of the occupants of No 1 Westbury Terrace and to highway safety means that the development fails to accord with the development plan as a whole. The appeal is therefore dismissed.

B Phillips

INSPECTOR