



Appeal Decision

Site visit made on 2 November 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/B5480/W/21/3287483

Flats 1-10, Cheltenham Court, 20 Haydock Close, Hornchurch, Essex RM12 6EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Raj Mahal against the Council of the London Borough of Havering.
 - The application Ref P.1239.21, is dated 21 June 2021.
 - The development proposed is conversion of existing 2 x 2-bed flats on third floor to 4 x 1-bed flats involving installation of Juliet balcony and double doors to each rear dormer.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing 2 x 2-bed flats on third floor to 4 x 1-bed flats involving installation of Juliet balcony and double doors to each rear dormer at Flats 1-10, Cheltenham Court, 20 Haydock Close, Hornchurch, Essex RM12 6EA in accordance with the terms of the application, Ref P.1239.21, dated 21 June 2021, and subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Raj Mahal against the Council of the London Borough of Havering. This application is the subject of a separate Decision.

Preliminary Matters

3. In part E of the appeal form it is confirmed that the description of the development has changed from that stated on the application form. I have therefore used the amended description in this decision.
4. I have also dealt with another appeal¹ on this site. That appeal is the subject of a separate decision.

Background and Main Issue

5. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. In its Appeal Statement, the Council has indicated the decision it would have made had it been in a position to do so.

¹ Appeal Ref: APP/B5480/W/21/3288750

6. Having regard to the Council's Statement, the main issue is the effect of the proposal on the supply of housing for families and smaller households in the area, with due regard to local and national planning policy.

Reasons

7. The appeal proposal involves the conversion of two 2-bedroom flats to four 1-bedroom flats on the uppermost floor of an existing block of flats.
8. Policy 9 of the Havering Local Plan 2021 (the Local Plan) is supportive of the subdivision of existing residential properties to self-contained homes subject to a number of criteria. This includes Policy 9(ii) which seeks to prevent the subdivision of properties with a floorspace of 120m² or less, and ensure that the subdivision would provide a minimum of one family unit with 3 or more bedrooms.
9. The proposal relates to 2 flats each of which has a floorspace of less than 120m². The proposal would not include a 3-bedroom family unit, and would therefore conflict with Policy 9(ii). However, the extant appeal properties also do not include a 3-bedroom family unit.
10. Policy 9(iii) also seeks to ensure that the new family unit is located on the ground floor with direct access to private amenity space. The existing flats which this appeal relates to do not provide this form of accommodation, and the proposal would not meet this goal either. On that basis, and mindful of the limited scale of the proposed development, I do not consider that it would be appropriate to require the provision of a family dwelling as part of the appeal proposal.
11. Policy 9(ii) refers to 'the existing house', and the supporting text at paragraph 7.7.2 also refers to houses. The appellant contends that this wording means that the policy does not apply to flats, and is therefore not relevant to the appeal proposal. However, the initial covering sentence of Policy 9 refers to 'residential properties', and it is clear from the supporting text that Policy 9(ii) aims to retain smaller dwellings for smaller households of single persons and young couples on moderate income. I see no reason why flats could not contribute to the provision of smaller dwellings, and on that basis I consider that the reference to 'houses' in Policy 9(ii) is a generic term which includes flats within the remit of that policy.
12. Drawing the above together, the proposal would conflict with Policy 9 of the Local Plan in respect of the supply of housing for families and smaller households in the area. However, for the reasons stated regarding the form of the proposal and the extant site, this carries limited weight against the appeal.

Other Matters

13. The proposal would add to the supply and mix of housing in the area. The Council refers to the Outer North East London SHMA which demonstrates that the Council's priority through the Local Plan should be for 2 and 3 bed properties with 1 bed properties less of a priority. However, a lower priority for 1 bed dwellings does not mean that there is no need for this form of housing. The proposal would add a net gain of 2 dwellings to the supply of housing in this area and would add to the mix of dwellings, although given the scale of the proposal this carries only limited weight in favour of the appeal. The proposal would also contribute to the Government's objective of significantly boosting

the supply of homes as set out in the National Planning Policy Framework, (the Framework) albeit to a limited degree.

14. The Council refers to the screening for the proposed balconies in respect of other flats. With regard to flats within the building, the balconies would be of a similar arrangement to those on a lower floor, and would not enable an intrusive degree of overlooking or loss of privacy of other flats within the site. The appellant considers that the effect of the proposed balconies on the privacy of residents of 16 and 18 Haydock Close would be no greater than the existing first floor balconies. However, the proposed balconies would have a greater elevation and I saw that the effect of screening from trees was diminished at this higher level. That said, this issue can be addressed through the provision of a privacy screen for the flat closest to Nos 16 and 18.
15. Comments raised locally have referred to parking problems in the area. However, the appellant has provided evidence that the proposal would include parking provision in accordance with the appropriate standards. On the basis of the evidence before me, this matter does not weigh against the proposal.
16. Comments have also been raised about the storage of refuse at the site. However, this can be addressed through a condition requiring details of refuse and recycling storage prior to the occupation of the dwellings.
17. Noise from construction works would be for a limited period, and can be mitigated through a condition limiting the hours of building works.

Conditions

18. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of the conditions for clarity.
19. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty.
20. A condition requiring the approval of materials is required in the interests of character and appearance. These details should be submitted to and approved by the local planning authority at the pre-commencement stage as they relate to matters which need to be established before the commencement of building operations.
21. A condition restricting building hours is required in the interests of the living conditions of nearby residents. I have removed reference to amplified music as this should not be part of the building process. A condition in respect of water efficiency is appropriate with regards to the efficient use of water resources. The submission of details of a privacy screen is appropriate in the interests of the privacy of nearby residents.
22. Details of waste and refuse storage are required in the interests of the living conditions of residents and the character and appearance of the area. The provision of cycle parking is required in the interests of sustainable transport. A condition in respect of the installation of ultra-low NOx boilers is required to minimise the impact of building emissions on air quality.

Planning Balance and Conclusion

23. The Council refers to various uncertainties relating to the Housing Delivery Test, housing trajectory and housing land supply. However, the Council considered the proposal on the basis of the tilted balance of paragraph 11(d) of the Framework. I have been provided with no substantive evidence to show that the Council's position on this has changed.
24. I will therefore also consider this appeal on the basis of the presumption in favour of sustainable development as set out in paragraph 11(d) of the Framework. This requires 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.
25. Although I have identified limited harm arising from the proposal due to the conflict with Policy 9 of the Local Plan, this would not significantly and demonstrably outweigh the limited benefits in respect of the supply and mix of housing and supporting the policies of the Framework with regards to delivering a sufficient supply of homes.
26. On that basis, the proposal would represent sustainable development and the appeal should be allowed.

David Cross

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: DWG/006 - Proposed Block Plan 2; DWG/14; DWG/15; and Location Plan.
- 3) Prior to commencement of the approved development, samples of all materials to be used in the external construction of the development 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) All building operations in connection with the approved development 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.
- 5) All dwellings hereby approved shall comply with Regulation 36 (2)(b) and Part G2 of the Building Regulations - Water Efficiency.
- 6) The development hereby approved shall not be occupied until details of a privacy screen for the proposed balcony of Flat 4 (as shown on drawing no DWG/15) have been submitted to and approved in writing by the local planning authority. The approved privacy screen shall be constructed prior to the first occupation of the development and shall remain as such thereafter.

- 7) Prior to the first occupation of any of the units hereby permitted, provision shall be made for the storage of refuse and recycling arising from site in accordance with details which shall previously be submitted to and agreed in writing by the Local Planning Authority.
- 8) The development hereby approved shall not be occupied until cycle parking is provided in accordance with details to be previously submitted to and approved in writing by the local planning authority. Cycle parking shall be to the standards set out in Table 10.2 of the London Plan. Such cycle parking shall therefore be retained to the satisfaction of the local planning authority.
- 9) 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 40 mg/kWh. Where any installations do not meet this emissions 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 boilers shall be carried out in strict accordance with the agreed details and shall thereafter be permanently retained. Following installation, emissions certificates will need to be provided to the local planning authority to verify boiler emission.

END OF SCHEDULE