



Appeal Decision

Site visit made on 3 January 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 FEBRUARY 2023

Appeal Ref: APP/B5480/W/22/3301221

147 Benhurst Avenue, Hornchurch RM12 4QN

- 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 N Bartkute against the decision of London Borough of Havering.
 - The application Ref P1767.21, dated 7 September 2021, was refused by notice dated 28 April 2022.
 - The development proposed is the conversion of a 2-storey dwelling into 2x 1 bed and 1x 2bed self-contained flats including 2-storey side/part-rear extensions including car parking and dropped kerb.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the banner heading is taken from the appeal form; I have used it rather than the wording from the planning application form as it provides a more comprehensive description of the proposal.

Main Issues

3. The main issues are the effects of the proposed development on:
 - The character and appearance of the area;
 - Street trees;
 - The supply of family housing in the borough;
 - Living conditions for neighbouring occupiers, with particular regard to noise disturbance and loss of privacy; and
 - The demand for car parking in the area.

Reasons

4. The appeal site is a two-storey semi-detached house on the north side of Benhurst Avenue close to Elm Park district centre. At some point – it is not clear from the provide planning history precisely when – a flat-roofed extension has been added to the rear of the ground floor. The proposed development is the erection of a two-storey side and rear extension, and the conversion of the property to three self-contained flats. The proposal also includes an additional car parking space at the front of the building, which would necessitate widening the driveway and extending an existing dropped kerb.

Character and appearance

5. The appeal property has deep catslide side roofs giving it, along with its semi-detached "twin" No 145, what the Council describes as an "A-frame" appearance when viewed from the street. It is an example of one of three house types which characterise Benhurst Avenue; although some of the others have been altered by the addition of side dormers and suchlike, the appeal property and its neighbour together exhibit a neat symmetry which means that they make a positive contribution to the quality of the streetscene.
6. The Council's 2011 *Residential Extensions and Alterations* Supplementary Planning Document ("the SPD") advises that the symmetry of semi-detached houses and the spacing between pairs are important considerations for side extensions. Side extensions should be subordinate to the existing dwelling to ensure they do not unbalance a pair of semi-detached properties, and to maintain the characteristic gap between neighbouring pairs of semi-detached houses. It also advises that two-storey side extensions should be set back at least one metre from the front wall of the dwelling at first floor level, to create a break in the roofline and facade, and avoid a terracing effect.
7. The proposed extension would be a substantial addition to the side of the appeal property, which would be set behind the main front elevation by a very small amount at both ground and first floor levels. Rather than being subordinate, the significant bulk of the extension would overwhelm and subsume the original dwelling. It would also unbalance the semi-detached pair, giving it a cumbersome and lopsided appearance.
8. The appellant drew my attention to No 3 St Nicholas Avenue, a semi-detached property of essentially the same basic design as the appeal property which has been extended in a similar manner to this appeal proposal. There is nothing before me to indicate how or when that extension came into being. However, I was able to view it at the time of my site visit and found it to be a bulky and dominant addition to that property, with a similar unbalancing effect to that which would result in this case. The existence of the extension at No 3 St Nicholas Avenue does not therefore provide a justification for allowing the appeal scheme.
9. The appeal property is the first house on the north side of Benhurst Avenue, and well-separated from the rear of No 2 St Nicholas Avenue; the regularity of gaps between semi-detached pairs which the SPD seeks to preserve, and the avoidance of a terracing effect, are not therefore significant issues in this case.
10. Nevertheless, for the reasons set out in paragraph 7 above I conclude that the dominating and unbalancing effect of the proposed side extension would be harmful to the character and appearance of the area. The proposal therefore conflicts with Policies 7 and 26 of the 2021 Havering Local Plan ("the HLP") which, among other things, seek to ensure that residential development is of a high design quality which respects and complements the distinctive identity and character of the local streetscene. For the same reasons, the proposal conflicts with the provisions of the National Planning Policy Framework ("the Framework") which seek to achieve well-designed places, in particular Paragraph 130 which requires development to add to the overall quality of the area, be sympathetic to local character, and maintain a strong sense of place.

Street trees

11. There is a mature tree within the footway immediately in front of the appeal property. Although the submitted drawings are sketchy rather than detailed in respect of this element of the proposed development, it appears that the widening of the driveway and the dropped kerb in front of the dwelling would result in the tree being lost.
12. This matter was not addressed in the appellant's statement, and in the absence of any evidence to the contrary I conclude that the scheme would result in the loss of an established street tree. This would be in conflict with Policy 27 of the HLP, which among other things seeks the retention of landscape features such as trees which contribute positively to the setting and character of the local area. It would also conflict with Paragraph 131 of the Framework, which seeks to ensure that existing trees are retained wherever possible.

Family Housing

13. Policy 9 of the HLP seeks to prevent the subdivision of properties with a floorspace of 120m² or less, and to ensure that all proposals for subdivision would provide a minimum of one family unit with three or more bedrooms. The supporting text to the policy explains that this threshold has been set to enable the retention of smaller dwellings for "smaller households of single persons and young couples on moderate income".
14. The Council's officer report states that the property has a floor area of 95m², based on an earlier building control application¹, while the appellant's statement gives the area as 111m²; the gross internal area stated on the planning application form was 105.2m². The reason for these discrepancies is not entirely clear, but in any event even the largest figure put forward falls below the threshold set out in Policy 9. The appeal scheme would see a four-bedroom, single family dwelling replaced with three smaller flats, the largest of which would have two bedrooms. The scheme therefore does not comply with the restrictions of the development plan.
15. The appellant has suggested that "there are many projects approved within this borough where houses have been converted without 1x3-bed family unit", although no specific examples have been put forward. Similarly, I note the appellant's comment that the location close to Elm Park shops and tube station means that converting the property would provide a means for young families and couples to get onto the housing ladder; that may be so, but the nature of the existing housing on the street suggests that Benhurst Avenue is an equally attractive location for larger and established families. The comment that Elm Park has "a massive stock" of family dwellings does not outweigh the Council's evidence, drawing on the *2016 Outer North East London Strategic Housing Market Assessment*, that the greatest housing need in the borough is for larger homes. None of the arguments put forward by the appellant amounts to a substantive justification for the loss of family housing.
16. The proposed development would lead to the loss of a family housing unit. It therefore conflicts with Policy 9 of the HLP, the relevant aims of which I have described in paragraph 13 above.

¹ LPA Reference 2146/71

Neighbours' living conditions

17. The combined kitchen/lounge/diner of the proposed first-floor flat would adjoin the rear bedroom of the neighbouring property 145 Benhurst Avenue. This arrangement would be likely to result in everyday activity within the appeal property causing unacceptable noise disturbance for the occupiers of No 145.
18. The proposed development also includes a balcony on part of the flat roof space at the rear of the first floor. I saw on my site visit that the existing flat roof is already in use as a balcony, from which commanding views over the rear gardens of the neighbouring properties were possible. The conversion of the upstairs of the appeal property to a self-contained flat, for which the balcony would be the principal amenity space, would be likely to result in a considerable intensification of its use. This would have harmful consequences for the privacy of the occupiers of the surrounding dwellings.
19. I conclude that the proposed development would cause unacceptable harm to neighbours' living conditions. It would therefore conflict with Policy 9 of the HLP which seeks to ensure that the conversion and subdivision of residential property does not conflict with surrounding uses, and specifically requires that living areas of new properties do not abut the bedrooms of adjoining properties. The proposal would also conflict with the requirements of Paragraph 130 of the Framework, which seek a high standard of amenity for existing and future users.

Car parking

20. The Council states that the appeal site has a Public Transport Accessibility Level ("PTAL") of 2; this signifies poor to moderate public transport connectivity. Policy T6.1 of the London Plan requires that, for an Outer London location with a PTAL of 2 or 3, the maximum parking provision should be 0.75 spaces per one- or two-bedroom dwelling. For the appeal scheme, this would mean providing no more than 2.25 spaces to serve the three dwellings proposed. The scheme includes two off-street parking spaces in the front garden and, although they are shown on the submitted drawings as being for visitors (and notwithstanding that no dimensions were shown for the spaces), the Council considered that the scheme included adequate car parking provision.
21. Policy 24 of the HLP states that "planning conditions and legal agreements may be used to restrict eligibility for on-street residential and commercial parking permits irrespective of the amount of parking spaces provided off-street as part of the development". The Council considers that such a legal agreement would be necessary to make the proposed development acceptable.
22. The appeal site is not within a Controlled Parking Zone ("CPZ"). I saw on my site visit that, although some of Benhurst Avenue has single yellow line restrictions preventing parking between 8.30am and 6.30pm from Monday to Saturday, on other parts of the road on-street (and on-kerb) parking is allowed without a permit. My visit took place on a weekday afternoon, when there were several on-street parking spaces available on Benhurst Avenue reasonably close to the appeal site. I recognise that there is likely to be a greater demand for parking spaces during evenings and weekends, but there is no substantive evidence before me to demonstrate the extent of any existing parking stress, or that it would be significantly exacerbated by the relatively modest scale of the proposed development. There is also nothing within the Council's evidence

to indicate that is considering introducing a CPZ to the surrounding area any time soon. Taking all of this together, I consider that in the current circumstances it would not be reasonable or necessary to seek a s106 obligation limiting occupiers' access to permits in respect of a hypothetical possible future CPZ.

23. I conclude that the proposed development would not have a significant harmful effect on parking stress within the area, and it therefore complies with Policy 24 of the HLP which seeks to ensure that an appropriate level of car parking provision is made for development. I also find that there would be no conflict with Policy T6.1 of the London Plan 2021, which seeks to limit car parking provision in line with levels of public transport as summarised in paragraph 20 above.

Planning Balance and Conclusion

24. The Council's evidence acknowledged that the 2021 Housing Delivery Test ("HDT") results, published on 14 January 2022, showed that it had met only 46% of its housing requirement over the three-year period to 2021. The Council went on to comment that, on the adoption of the HLP in November 2021 a "stepped" housing target had been set which applied retrospectively; under this the Council had delivered 81% of its housing target between 2018 and 2021. It also stated that it is carrying out an "immediate" update of the local plan and a review of its housing trajectory in order to establish its housing land supply position.
25. As a consequence of these actions, the Council has requested that the government recalculate its HDT results. However, there is nothing before me to indicate whether or not the government has acceded to that request. In line with Footnote 8 of the Framework, I therefore consider that the most important policies for determining the appeal should be considered out of date, and the presumption in favour of sustainable development set out in Paragraph 11d) of the Framework applies. As such, planning 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.
26. The Framework seeks to significantly boost the supply of housing, although it also seeks to ensure that planning policies (and, by extension, decisions) reflect the size, type and tenure of housing needed for different groups in the community. In this light, the net gain of two dwellings would make only a small contribution to boosting the supply of homes and, when weighed against the loss of a valuable unit of family housing would in my view essentially be a neutral consideration in the Framework's terms. The appeal site is well-located for access to shops and other services; there would potentially also be some additional benefits in terms of employment and use of local businesses during the construction phase and once the proposed flats were occupied. Given the small scale of the scheme, these would represent in total very modest social and economic benefits. I have also found that the effect on demand for car parking would not be unacceptable.
27. However, the proposed development would be detrimental to the character and appearance of the area, including because of the loss of a street tree. It would also be harmful to living conditions for neighbouring occupiers. The development would therefore conflict with the specific requirements of Chapter

12 of the Framework, which seek to achieve well-designed places, for the reasons I have set out above.

28. Overall, the harm from the development significantly and demonstrably outweighs the benefits when assessed against the Framework taken as a whole. The proposal would not amount to sustainable development in the terms set out in the Framework. The appeal is therefore dismissed.

M Cryan

Inspector